5–8–06 Monday
Vol. 71 No. 88 May 8, 2006

Pages 26675–26816

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, May 9, 2006
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 71, No. 88

Monday, May 8, 2006

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 71, No. 88
Monday, May 8, 2006

Presidential Documents

Title 3—

The President

Proclamation 8012 of May 3, 2006

National Day of Prayer, 2006

By the President of the United States of America

A Proclamation

Throughout our Nation's history, our citizens have prayed and come together before God to offer Him gratitude, reflect on His will, seek His aid, and respond to His grace. On this National Day of Prayer, we thank God for His many blessings and His care of our country.

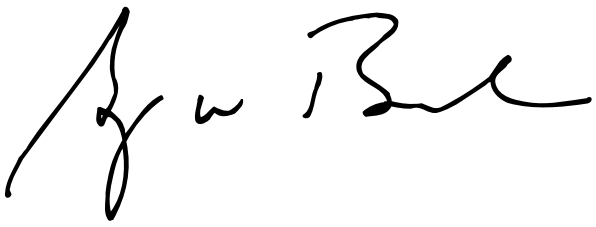
God has greatly blessed the American people, and in 1789, George Washington proclaimed: ''It is the duty of all nations to acknowledge the Providence of Almighty God, to obey His will, to be grateful for His benefits, and to humbly implore His protection and favor.'' Americans remain a prayerful and thankful people. We pray for the safety of our troops as they carry out dangerous missions with courage and compassion, and we remember the strength and sacrifice of their families. We pray for the good people of the Gulf Coast region as they work to rebuild their communities after the devastating hurricanes of 2005, and we thank God for the volunteers who have opened their hearts to help their neighbors in a time of need. We pray for the protection of innocent lives and for the expansion of peace and liberty throughout the world.

Through prayer, our faith is strengthened, our hearts are humbled, and our lives are transformed. May our Nation always have the humility to trust in the goodness of God's plans.

The Congress, by Public Law 100–307, as amended, has called on our Nation to reaffirm the role of prayer in our culture and to respect the freedom of religion by recognizing each year a ''National Day of Prayer.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 4, 2006, as a National Day of Prayer. I ask the citizens of our Nation to give thanks, each according to his or her own faith, for the freedoms and blessings we have received and for God's continued guidance and protection. I urge all Americans to join in observing this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 06–4341
Filed 5–5–06; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 71, No. 88
Monday, May 8, 2006

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 271

General Information and Definitions

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 210 to 299, revised as of January 1, 2006, on page 555, in § 271.2, after the definition of ''Small project area'' remove paragraph (2).

[FR Doc. 06–55517 Filed 5–5–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

Foreign Quarantine Notices

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 300 to 399, revised as of January 1, 2006, make the following corrections:

1. On page 378, in § 319.56–2d, paragraph (c), and on page 384, in § 319.56–2l, paragraph (b)(2)(ii), remove the title ''Deputy Administrator of the Plant Protection and Quarantine Programs'' and add in its place ''Administrator''; and

2. On page 385, in § 319.56–2m, remove the table in paragraph (b).

[FR Doc. 06–55516 Filed 5–5–06; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 417

[Docket No. 05–016N; FDMS Docket No. FSIS–2005–0035]

The Use of Ingredients of Potential Public Health Concern

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Compliance with the HACCP system regulations and request for comment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing this document to inform establishments that prepare meat and poultry products of the need to ensure that they maintain proper control over the use of ingredients, especially those that present a potential public health concern, and over the ingredient labeling of their products. Establishments should ensure that their systems provide such control as part of their next reassessment of their HACCP systems. FSIS invites comments on the matters presented in this document.

DATES: The Agency must receive comments by July 7, 2006.

ADDRESSES: FSIS invites interested persons to submit comments on this document. Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. FSIS prefers to receive comments through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Food Safety and Inspection Service'' from the agency drop-down menu, and then click on ''Submit.'' In the Docket ID column, select the Docket Number, FSIS–2005–0035, to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in Regulations.gov.

Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102 Cotton Annex, Washington, DC 20250.

Electronic mail: *fsis.regulationscomments@fsis.usda.gov*. All submissions received must include the Agency name and docket number 05–016N and FDMS Docket Number FSIS–2005–0035.

All comments submitted in response to this document, as well as research and background information used by FSIS in developing this document, will be posted to the regulations.gov Web site and on the Agency's Web site at *http://www.fsis.usda.gov/regulations_&_policies/2006_Notices_Index/index.asp*. The background information and comments also will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert C. Post, Ph.D., Director, Labeling and Consumer Protection Staff, Office of Policy, Program, and Employee Development, Food Safety and Inspection Service, 1400 Independence Ave., SW., Room 602 Annex, Washington, DC 20250–3700; (202) 205–0279.

SUPPLEMENTARY INFORMATION:

Background

FSIS administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to protect the health and welfare of consumers by preventing the processing and distribution of meat and poultry products that are unwholesome, adulterated, or misbranded, or otherwise unfit for human food.

Under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), all ingredients used to formulate a meat, poultry, or egg product must be declared in the ingredients statement on product labeling. A product is misbranded under the FMIA, PPIA, or EPIA when it contains ingredients that are permitted but are not declared on product labeling.

In addition to avoiding misbranding, the Pathogen Reduction and Hazard Analysis and Critical Control Point (HACCP) regulations (61 FR 38806, July

25, 1996) require that federally inspected establishments take preventive and corrective measures at each stage of the food production process where food safety hazards are reasonably likely to occur. The preventative actions may be part of an establishments HACCP plan or a prerequisite plan. A failure to adequately ensure that ingredients that have the potential to cause food to be unsafe for human consumption (including adverse reactions to food ingredients) are properly used in meat and poultry products through one or more of these programs will result in adulterated products. Allergenicity and the Food Allergen and Consumer Protection Act of 2004.

There are many foods and food ingredients to which some individuals may have some degree of intolerance or possible allergic reaction. Thus, a lack of control over the use of these ingredients in the production process or incomplete labeling may result in food that is unsafe for consumption by some individuals. On January 1, 2006, the Food Allergen Labeling and Consumer Protection Act (FALCPA) of 2004, became effective. This act amends the Federal Food, Drug, and Cosmetic Act to require that the label of an FDA regulated food that contains an ingredient that is or contains protein from a ''major food allergen'' declare the presence of the allergen in the manner described by the law. Congress passed this Act to make it easier for food allergic consumers and their caregivers to identify and avoid foods that contain major food allergens.

FALCPA identifies eight foods or food groups as the major food allergens. They are milk, eggs, fish (*e.g.*, bass, flounder, cod), Crustacean shellfish (*e.g.*, crab, lobster, shrimp), tree nuts (*e.g.*, almonds, walnuts, pecans), peanuts, wheat, and soybeans. These foods account for roughly 90 percent of all food allergies.

Foods in these main categories affect people in two main ways [1] [2]. Food allergies are immunologically mediated reactions to foods or food constituents. These reactions are caused by proteinaceous foods acting as an antigen to the human immune system. These reactions can be severe.

Food intolerances are non-immunologically mediated reactions. They are caused by a reaction to the chemical composition of a food itself or to an additive, such as a preservative (*e.g.*, sulfites) or a flavoring (*e.g.*, lactose).

There are many foods or food ingredients to which some individuals may have some degree of intolerance or possible allergenic response.[3] The manner that a person reacts to an allergen is highly individualistic, varying in degree, onset time, location of reaction, and the amount of the food needed to trigger the response. Because of this concern and with the advent of FALCPA, it is the view of FSIS that it is important for processors to review their processes to ensure that those processes provide the basis for confidence that the intended ingredients will be used, that the proper package will be used, and that all ingredients will be correctly labeled on products, especially those ingredients that contain protein such as those identified by FALCPA.

Evaluation of Controls for Allergens Under HACCP Reassessment

Section 417.4(a)(3) states that every establishment shall reassess the adequacy of its HACCP plan at least annually and whenever any changes occur that could affect the hazard analysis or alter the HACCP plan. The Agency has determined that failure of establishments to control the use and declaration of the ingredients identified by FALCPA represents information that could alter the hazard analysis and, ultimately, the HACCP plans of any establishment that prepares meat and poultry food products with ingredients that are potential sources of food sensitivities and thus of public health concern.

Therefore, establishments that produce multi-ingredient products should consider, as part of their next annual HACCP reassessment, their control of ingredient use, particularly the use of those identified by FALCPA, and what further actions should be taken to maintain proper control through the production process. Establishments that prepare meat and poultry products that have already taken into account in their HACCP plans the need to control the use of ingredients need not give special consideration to such ingredients in their next annual reassessment. Establishments in both groups, however, may wish to use this opportunity to review their processes to ensure that they include mechanisms to control the use of all ingredients.

If the reassessment results in a determination by the establishment that it needs to take additional steps to ensure proper ingredient use, particularly the use of those identified in FALCPA, it must be addressed through HACCP or a prerequisite program. For example, a reassessment may reveal that the establishment uses ingredients identified by FALCPA. As part of the reassessment, the establishment may choose to verify that it has controls in place to ensure, or that it has other means (through the use of a prerequisite program) of ensuring, that the ingredients to be used in the product to be produced, and only those ingredients, are available at the time of production; that the list of these ingredients matches the ingredient list on the label that is to be applied to the product; and that records are produced and maintained to verify that the proper ingredients are used.

FSIS Actions To Enforce and Facilitate Compliance With the Reassessment and Labeling Requirements

The Agency will instruct inspection program personnel to verify, as part of their review of the establishment's next annual hazard analysis reassessment, that meat and poultry establishments have considered in the reassessment the use of ingredients, particularly those identified by FALCPA. Before performing that verification, inspection program personnel will ensure that all establishments are aware that the Agency has issued this document.

On an ongoing basis, FSIS inspection personnel will verify that establishments' food safety systems are designed to ensure that product that bears the mark of inspection is in the proper package and bears the proper label, particularly when the product includes ingredients that are capable of causing adverse reactions in sensitive individuals.

Paperwork Reduction Act

FSIS has reviewed the paperwork and recordkeeping requirements in this document in accordance with the Paperwork Reduction Act and has determined that the paperwork requirements for the regulations that require meat and poultry establishments to reassess their HACCP Plans have already been accounted for in the Pathogen Reduction/HACCP Systems information collection approved by the Office of Management Budget (OMB). The OMB approval number for the Pathogen Reduction/HACCP Systems information collection is 0583–0103.

[1] Taylor, S.L., 1987. Allergic and sensitivity reactions to food components. In: Hathcock, J.N. (ed.): Nutritional Toxicology, Vol. II. New York: Academic Press, pp. 173–198.

[2] Lemke, P.J., and Taylor, S.L., 1994. Allergic reactions and food intolerances. In: Kotsonis, F.N., Mackey, M., and Hjelle, J. (eds.): Nutritional Toxicology. New York: Raven Press, pp. 117–137.

[3] National Institutes of Allergy and Infectious Diseases, NIH, USHHS, 1999. Health Matters Fact Sheet: Food Allergy and Intolerances, January.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and, in particular, minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2006_Notices_Index/*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update is available on the FSIS Web page located at *http://www.fsis.usda.gov*. Through the Listserv and its Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an electronic mail subscription service which provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options across eight categories. Options range from recalls to export information to regulations, directives, and notices.

Customers can add or delete subscriptions themselves and have the option to protect their accounts with passwords.

Done at Washington, DC on May 1, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. E6–6743 Filed 5–5–06; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22624; Directorate Identifier 2004–NM–81–AD; Amendment 39–14586; AD 2006–10–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Boeing Model 747 airplanes. This AD requires the following actions for the drive mechanism of the horizontal stabilizer: Repetitive detailed inspections for discrepancies and loose ball bearings; repetitive lubrication of the ballnut and ballscrew; repetitive measurements of the freeplay between the ballnut and the ballscrew; and corrective action if necessary. This AD results from a report of extensive corrosion of a ballscrew in the drive mechanism of the horizontal stabilizer on a similar airplane model. We are issuing this AD to prevent an undetected failure of the primary load path for the ballscrew in the horizontal stabilizer and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

DATES: This AD becomes effective June 12, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 12, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Airplane Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6490; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Boeing Model 747 airplanes. That NPRM was published in the **Federal Register** on October 7, 2005 (70 FR 58623). That NPRM proposed to require the following actions for the drive mechanism of the horizontal stabilizer: Repetitive detailed inspections for discrepancies and loose ball bearings; repetitive lubrication of the ballnut and ballscrew; repetitive measurements of the freeplay between the ballnut and the ballscrew; and corrective action if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request Credit for Previously Accomplished Inspections

Northwest Airlines (NWA) asks that, in order to avoid accomplishing the initial inspections at the time specified in the NPRM, operators who have already done the initial inspections per the referenced service bulletin be allowed to continue with the repetitive inspections using established maintenance intervals based on the repetitive interval specified in Table 1 of the referenced service bulletin. NWA states that Table 1 of the referenced service bulletin, which provides the compliance intervals, indicates that the compliance time for the initial ballnut to ballscrew freeplay check for airplanes not in the low utilization maintenance program specifies ''15,000 flight hours after the last check'' and the repetitive interval specifies ''18,000 flight hours recommended, but not more than 21,000 flight hours.'' NWA has been accomplishing the lubrication, detailed visual inspections, and freeplay checks at the intervals specified in Table 1 of the service bulletin. NWA notes that paragraph (e) of the NPRM applies to operators that have been accomplishing the inspections in the referenced service bulletin, and asks that we ensure that

the intent of paragraph (e) is maintained in any forthcoming airworthiness directive.

We agree with NWA that operators who have already done the initial inspections per the referenced service bulletin are allowed to continue with the repetitive inspections using established maintenance intervals based on the repetitive interval specified in Table 1 of the referenced service bulletin. Paragraph (e) of the NPRM specifies that you are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done. We have added credit for accomplishing the initial inspections per the referenced service bulletin to paragraph (g) of this AD.

Lufthansa German Airlines (Lufthansa) has performed the initial ballscrew-to-ballnut freeplay inspection per the original issue of the referenced service bulletin, and has scheduled the next inspection within the 18,000 flight hour interval specified therein.

We infer that Lufthansa is asking to be allowed to continue accomplishing their repetitive inspections at the interval of 18,000 flight hours, since they have already done the initial inspection. As stated above, we agree that operators who have already done the initial inspections per the referenced service bulletin are allowed to continue with the repetitive inspections using established maintenance intervals based on the repetitive interval specified in Table 1 of the referenced service bulletin. No change to the AD is necessary in this regard.

Request To Extend Compliance Time for Initial Inspection

Lufthansa suggests that, for airplanes on which the initial and repetitive inspections have been done, the compliance time be changed to 18,000 flight hours for both the initial and repetitive inspections, as specified in the original issue of the referenced service bulletin. Lufthansa states that the proposed compliance time of 15,000 flight hours for the initial inspection, for all airplanes except those with an FAA-approved low utilization program, is not technically justified and is a burden for maintenance planning. Lufthansa adds that, in its opinion, the compliance time specified for the initial inspection is only justified if the inspection has never been done.

We do not agree to extend the compliance time for the initial inspection to 18,000 flight hours; initial inspections accomplished per the original issue of the referenced service bulletin meet the intent of this AD. In developing an appropriate compliance time, we considered the safety implications, the manufacturer's recommendation, and normal maintenance schedules for timely accomplishment of the initial inspection. We have determined that the compliance time, as proposed, represents the maximum interval of time allowable for the affected airplanes to continue to safely operate before the initial inspection is done. We have made no change to the AD in this regard.

Lufthansa also suggests that, for airplanes with more than 15,000 total flight hours, the compliance time for the detailed inspection specified in paragraph (f) of the NPRM be changed to within 18 months from the issue date of the referenced service bulletin. Lufthansa adds that another option would be to state that accomplishment of the detailed inspection task specified in the original issue of the referenced service bulletin meets the initial inspection requirements. The commenter states that the proposed compliance time is too short for airplanes with more than 15,000 total flight hours to perform the detailed inspection.

We do not agree with Lufthansa. As discussed previously, initial inspections accomplished per the original issue of the referenced service bulletin meet the intent of this AD. As specified in paragraph (f) of this AD, the compliance time is relative to the effective date of this AD.

Requests To Change Paragraph (h)

UPS, Lufthansa, and NWA ask that paragraph (h) of the NPRM be changed to clarify that the overhaul instructions for the horizontal stabilizer actuator are not contained in the referenced service bulletin.

UPS reiterates the language in paragraph (h) and contends that no overhaul instructions are provided in the referenced service bulletin. UPS states that the service bulletin specifies that if replacement is required, and a new or overhauled unit is not installed, then a detailed inspection and freeplay check are required. UPS adds that when a unit is overhauled per the component maintenance manual (CMM), it provides sufficient inspection requirements to meet the intent of the AD. Therefore, UPS recommends paragraph (h) be changed as follows: ''As of the effective date of this AD, no person may install on any airplane a horizontal stabilizer trim actuator unless it is new or has been overhauled in accordance with the CMM; or has been inspected, lubricated, and measured in accordance with paragraph (f) of this AD.'' UPS notes that the referenced service bulletin does not provide any direction over and above the requirements of the CMM.

Lufthansa also reiterates the language in paragraph (h) and states that the referenced service bulletin does not provide overhaul procedures. Lufthansa adds that the Boeing Overhaul Manual (OHM 27–41–31) does not provide overhaul procedures either, but contains Inspection/Check and Repair sections. The overhaul limits are contained in OHM 27–40–05 (Lear Siegler) and CMM 27–31–01 (Beaver). Lufthansa states that it is inappropriate for the NPRM to refer to an overhaul procedure in a document which was not intended to include it. Lufthansa recommends that paragraph (h) be changed to specify ''the appropriate component manufacturer's overhaul procedures'' instead of the referenced service bulletin.

NWA states that it does not overhaul any components in accordance with service bulletins. NWA recommends that the statement ''or has been overhauled in accordance with Boeing Alert Service Bulletin 747–27A2396, Revision 1'' be changed to ''or has been overhauled in accordance with Boeing Alert Service Bulletin 747–27A2396, Revision 1 or subsequent.''

We partially agree with UPS, Lufthansa, and NWA. We agree to change paragraph (h) of this AD as follows: ''As of the effective date of this AD, no person may install on any airplane a horizontal stabilizer trim actuator unless it is new or overhauled in accordance with Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005 (which refers to the applicable overhaul manual); or has been inspected, lubricated, and measured in accordance with paragraph (f) of this AD.'' We find that there are no overhaul procedures in the referenced service bulletin; therefore, we have removed that reference accordingly.

Request To Change Relevant Service Information Section

Boeing and Lufthansa ask that we clarify the ''Relevant Service Information'' section of the NPRM.

Boeing asks that the first sentence in the last paragraph of that section be changed to read, ''For airplanes on which an FAA-approved low utilization maintenance program is in effect.'' That sentence, as written in the NPRM, specifies ''For all airplanes except those on which an FAA-approved low utilization maintenance program is in effect.'' Boeing suggests that the words ''all'' and ''except those'' which were included in that sentence, be deleted.

Boeing states that this paragraph addresses compliance requirements for ''low utilization'' airplanes, but as written in the NPRM includes the words for normal utilization airplanes.

Lufthansa also suggests that there is a typographical error within that section. Lufthansa states that the fourth and fifth paragraphs start with the same sentence, and asks if the first sentence in the fifth paragraph should read ''For airplanes with an FAA-approved low maintenance program.''

We agree with Boeing and Lufthansa that clarifying the first sentence in the last paragraph of the ''Relevant Service Information'' section would be helpful, because the first sentence in the last paragraph, which describes ''low utilization'' airplanes, is incorrect. That sentence should specify ''For airplanes on which an FAA-approved low utilization maintenance program is in effect:'' However, since the ''Relevant Service Information'' section of the NPRM does not reappear in the final rule, no change to the AD is necessary in this regard.

Lufthansa also asks that the compliance time specified in the ''Relevant Service Information'' section, the ''18 months after the original issue date of the service bulletin,'' specify which revision of the service bulletin.

We do not agree with Lufthansa. The first sentence under the ''Relevant Service Information'' section specifies that we have reviewed Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005. The second sentence defines the compliance times in that service bulletin. That section is not restated in this AD and no change to the AD is necessary in this regard.

Request for Clarification of Lubrication Action

Lufthansa suggests that we clarify that the lubrication action specified in the NPRM is not related to oil servicing of the stabilizer actuator drive gearbox.

We disagree that clarification is necessary. The NPRM and referenced service bulletin contain clear and specific instructions for the lubrication of the horizontal stabilizer ballscrew and ballnut. No change to the AD is necessary in this regard.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 1,082 Model 747 series airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this AD, per cycle.

ESTIMATED COSTS

Repetitive actions	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Detailed inspection	1	$65	None	$65	236	$15,340
Lubrication	1	65	None	65	236	15,340
Freeplay measurement	3	65	None	195	236	46,020

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–10–02 Boeing: Amendment 39–14586; Docket No. FAA–2005–22624; Directorate Identifier 2004–NM–81–AD.

Effective Date

(a) This AD becomes effective June 12, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report of extensive corrosion of a ballscrew in the drive mechanism of the horizontal stabilizer on a similar airplane model. We are issuing this AD to prevent an undetected failure of the primary load path for the ballscrew in the horizontal stabilizer and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Repetitive Detailed Inspection/Lubrication/Freeplay Measurement and Corrective Action

(f) Do all the applicable actions, including any applicable corrective action, specified in Work Packages 1, 2, and 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005. Do the actions at the applicable compliance time specified in Table 1 of paragraph 1.E. ''Compliance'' of the service bulletin; except, where the service bulletin specifies a compliance time relative to the original issue date of the service bulletin, this AD requires compliance relative to the effective date of this AD. Where the service bulletin specifies a compliance time relative to the delivery date of the airplane, this AD requires compliance relative to the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness. Do any applicable corrective action before further flight. Repeat the actions at the applicable repeat interval specified in Table 1 of paragraph 1.E ''Compliance'' of the service bulletin.

Note 1: Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005, refers to the airplane maintenance manuals (AMMs) in Table 1 of this AD as additional sources of service information for accomplishing the detailed visual inspections, lubrications, freeplay measurements, and corrective actions.

TABLE 1.—ADDITIONAL SOURCES OF SERVICE INFORMATION

Boeing AMM	Subject
747–100/200/300 AMM	12–21–19
747–100/200/300 AMM	27–41–06
747–400 AMM	12–21–19
747–400 AMM	27–41–06

Previously Accomplished Actions

(g) Initial inspections accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–27A2396, dated September 4, 2003, are considered acceptable for compliance with the corresponding action specified in this AD. For airplanes on which the drive mechanism of the horizontal stabilizer was replaced before the effective date of this AD with a drive mechanism that was not new or overhauled, and the detailed and freeplay inspections were not accomplished in accordance with Boeing Alert Service Bulletin 747–27A2396, dated September 4, 2003: Within 4,000 flight hours or 24 months after the effective date of this AD, whichever is first, accomplish the inspections, and perform any applicable corrective action before further flight, in accordance with Work Package 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005.

Parts Installation

(h) As of the effective date of this AD, no person may install on any airplane a horizontal stabilizer trim actuator unless it is new or has been overhauled in accordance with Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005 (which refers to the applicable overhaul manual); or has been inspected, lubricated, and measured in accordance with paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Airplane Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 747–27A2396, Revision 1, dated August 4, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–4230 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–233–AD; Amendment 39–14585; AD 2006–10–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, that currently requires installation of protective tape on the fire and overheat control unit located in the flight compartment. This amendment requires the installation of protective tape and adds repetitive inspections of the condition of the protective tape and related corrective action. This amendment also mandates eventual replacement of the existing fire and overheat control unit with a modified unit, which ends the repetitive inspections. Additionally, this amendment adds airplanes to the applicability in the existing AD. The actions specified by this AD are intended to prevent fluid contamination inside the fire and overheat control unit, which could result in a false fire alarm and consequent emergency landing. This action is intended to address the identified unsafe condition.

DATES: Effective June 12, 2006.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 12, 2006.

On August 22, 2003 (68 FR 42580, July 18, 2003), the Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair,

Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli (or James Delisio), Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; telephone (516) 228–7331 (or (516) 228–7321); fax (516) 794–5531.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2003–14–17, amendment 39–13236 (68 FR 42580, July 18, 2003), which is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, was published in the **Federal Register** on April 6, 2004 (69 FR 17987). This action proposed to continue to require the installation of protective tape and to add repetitive inspections of the condition of the protective tape and related corrective action. This action also proposed to mandate eventual replacement of the existing fire and overheat control unit with a modified unit, which would end the repetitive inspections. Additionally, this action proposed to add airplanes to the applicability in the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Refer to Current Revision of Service Information

Two commenters, Air Wisconsin Airlines and Bombardier, request that we change one service information reference in the notice of proposed rulemaking (NPRM). Bombardier states that the NPRM refers to Service Bulletin 601R–26–018, Revision 'A,' dated February 27, 2003, in several places, although Revision 'B,' dated November 6, 2003, is the current revision. Bombardier requests that we change all references in the NPRM from Revision 'A' to Revision 'B.' Air Wisconsin Airlines states that the compliance time of ''8,000 flight hours or 36 months from the issue date of this service bulletin,'' specified by Revision 'A' has been changed to ''20,000 flight hours from the issue date of this service bulletin or before December 31, 2010,'' in Revision 'B.' Air Wisconsin Airlines notes that paragraph (e) of the NPRM refers to ''20,000 flight hours'' and suggests changing the service information reference in paragraph (e) from Revision 'A' to Revision 'B' to bring the ''20,000 flight hours'' into agreement with the current service information.

We have reviewed Bombardier Service Bulletin 601R–26–018, Revision 'B,' dated November 6, 2003. Except for the changed compliance time noted and an added reference to Transport Canada Civil Aviation (TCCA), Revision 'A' and Revision 'B' are essentially the same; therefore, we agree with this request for the reasons given. We have revised paragraphs (c), (e), and (f) of the AD to refer to Service Bulletin 601R–26–018, Revision 'B,' as the appropriate source of service information for accomplishing certain requirements of the AD.

Request To Extend Compliance Time

One commenter, Bombardier, requests that we revise the compliance time specified in paragraph (e) of the NPRM. Bombardier states that ''20,000 flight hours or 84 months,'' is not consistent with applying 5,000 flight hours as equivalent to 24 months of operation for a typical affected airplane. Bombardier states that ''20,000 flight hours or 96 months,'' would more accurately reflect this application.

We partially agree. Bombardier's analysis does indicate that a longer period of compliance time may be warranted. However, we have determined that 89 months, rather than 96 months, would more accurately reflect the compliance time mandated by Canadian airworthiness directive CF–2000–35R1, dated July 2, 2003. Therefore, we have revised paragraph (e) of the AD to specify a compliance time of ''20,000 flight hours or 89 months after the effective date of this AD, whichever occurs first.''

Change to Applicability

The reference to Service Bulletin 601R–26–018, Revision 'A' is changed to Revision 'B' in the applicability of the AD; however, no airplanes are added to or deleted from the applicability.

Change to Compliance Time Priority

To properly reflect the priority of the compliance times specified in Canadian airworthiness directive CF–2000–35R1, we have revised paragraph (d) of the AD to read, ''Within 5,000 flight hours or 24 months after the effective date of this AD, whichever occurs first.''

Credit for Use of Previous Issues of Service Information

The statement, ''This revision has no effect on aircraft which have a previous issue of this service bulletin incorporated,'' appears in Bombardier Service Bulletin 601R–26–018, Revision 'B,' dated November 6, 2003, and in Bombardier Alert Service Bulletin A601R–26–017, Revision 'D,' dated November 6, 2003. Therefore, we have added new paragraph (g) to the AD to give credit for actions accomplished in accordance with Alert Service Bulletin A601R–26–017, Revision 'C,' dated November 6, 2003; and with Service Bulletin 601R–26–018, dated December 2, 2002, and Revision 'A,' dated February 27, 2003. We have re-identified existing paragraph (g) and subsequent paragraphs in the AD.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are about 240 airplanes of U.S. registry that will be affected by this AD.

The installation of protective tape that is currently required by AD 2003–14–17 takes about 1 work hour per airplane to do, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $65 per airplane.

The new inspection required by this AD action will take about 1 work hour per airplane to do, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $15,600, or $65 per airplane, per inspection cycle.

The replacement required by this AD action will take about 2 work hours per airplane to do, at an average labor rate of $65 per work hour. Parts cost will be minimal. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is

estimated to be $31,200, or $130 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–13236 (68 FR 42580, July 18, 2003), and by adding a new airworthiness directive (AD), amendment 39–14585, to read as follows:

2006–10–01 Bombardier, Inc. (Formerly Canadair): Docket 2003–NM–233–AD. Supersedes AD 2003–14–17, Amendment 39–13236.

Applicability: Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes; certificated in any category; as identified in Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ''B,'' dated November 6, 2003.

Compliance: Required as indicated, unless accomplished previously.

To prevent fluid contamination inside the fire and overheat control unit in the flight compartment, which could result in a false fire alarm and consequent emergency landing, accomplish the following:

Restatement of Requirements of AD 2003–14–17

Installation of Protective Tape

(a) For airplanes listed in Bombardier Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000: Within 250 flight hours or 30 days after August 22, 2003 (the effective date of AD 2003–14–17), whichever occurs first, install protective tape on the external cover of the fire and overheat control unit located in the flight compartment per the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000.

(b) Installation of protective tape on the external cover of the fire and overheat control in the flight compartment, done before August 22, 2003, per Bombardier Alert Service Bulletin A601R–26–017, dated August 4, 2000; or Revision ''B,'' dated February 6, 2003; is acceptable for compliance with the requirements of paragraphs (a) and (c) of this AD.

New Requirements of This AD

Installation of Protective Tape

(c) For airplanes identified in Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ''B,'' dated November 6, 2003; on which the requirements specified in paragraph (a) of this AD have not been done as of the effective date of this AD: Within 250 flight hours or 30 days after the effective date of this AD, whichever occurs first, install protective tape on the external cover of the fire and overheat control unit located in the flight compartment in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003. Accomplishment of this paragraph terminates the requirements of paragraph (a) of this AD.

Repetitive Inspections/Corrective Action

(d) Within 5,000 flight hours or 24 months after the effective date of this AD, whichever occurs first: Do a general visual inspection to determine the condition of the protective tape on the external cover of the fire and overheat control unit, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003.

(1) If the protective tape is not damaged and provides an adequate seal to prevent entry of liquid at the fastener and hinge positions of the unit: Repeat the inspection thereafter at intervals not to exceed 5,000 flight hours or 24 months, whichever is later.

(2) If the protective tape is damaged or does not provide an adequate seal to prevent entry of liquid at the fastener and hinge positions of the unit: Before further flight, replace the protective tape with new tape in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed 5,000 flight hours or 24 months, whichever is later, until paragraph (e) of the AD is accomplished.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Replacement

(e) Within 20,000 flight hours or 89 months after the effective date of this AD, whichever occurs first: Replace the fire and overheat control unit with a modified unit, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–26–018, Revision ''B,'' dated November

6, 2003. Accomplishment of the replacement terminates the repetitive inspections required by paragraph (d) of this AD.

No Reporting Required

(f) Where Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ''B,'' dated November 6, 2003; describe procedures for completing a reporting sheet, this AD does not require that action.

Credit for Use of Previous Issues of Service Bulletin

(g) Actions accomplished before the effective date of this AD in accordance with Bombardier Alert Service Bulletin A601R–26–017, Revision ''C,'' dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, dated December 2, 2002; or Revision ''A,'' dated February 27, 2003; as applicable; are considered acceptable for compliance with the corresponding requirements of this AD.

Part Installation

(h) As of the effective date of this AD, no person may install a fire and overheat control unit, part number 472597–01, on any airplane, unless the unit has been modified per paragraph (e) of this AD.

Alternative Methods of Compliance

(i)(1) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Incorporation by Reference

(j) Unless otherwise specified in this AD, the actions must be done in accordance with Bombardier Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000, or Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ''B,'' dated November 6, 2003; as applicable.

(1) The incorporation by reference of Bombardier Alert Service Bulletin A601R–26–017, Revision ''D,'' dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ''B,'' dated November 6, 2003; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On August 22, 2003 (68 FR 42580, July 18, 2003), the Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000.

(3) To get copies of this service information, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–2000–35R1, dated July 2, 2003.

Effective Date

(k) This amendment becomes effective on June 12, 2006.

Issued in Renton, Washington, on April 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–4231 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23948; Directorate Identifier 2005–NM–246–AD; Amendment 39–14587; AD 2006–10–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–100 and A320–200 Series Airplanes; and Model A320–111 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A319–100 and A320–200 series airplanes, and Model A320–111 airplanes. This AD requires modifying the wiring to the fuel pump control of the center fuel tank. This AD results from reports that the low-pressure warning for the fuel pumps of the center fuel tank has come on in flight. We are issuing this AD to ensure that the fuel pumps do not run while dry, which could result in a potential ignition source inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD becomes effective June 12, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 12, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A319–100 and A320–200 series airplanes, and Model A320–111 airplanes. That NPRM was published in the **Federal Register** on February 22, 2006 (71 FR 9046). That NPRM proposed to require modifying the wiring to the fuel pump control of the center fuel tank.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received. The commenter, Airbus, supports the NPRM.

Change to the NPRM

We have corrected the date for Airbus Service Bulletin A320–28–1059, Revision 04, in Table 1 of the AD to February 3, 1999 (instead of February 4, 1999).

Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the

economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD will affect about 119 airplanes of U.S. registry. The required actions will take about 17 work hours per airplane, at an average labor rate of $65 per work hour. There is no cost for parts. Based on these figures, the estimated cost of the AD for U.S. operators is $131,495, or $1,105 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–10–03 Airbus: Amendment 39–14587. Docket No. FAA–2006–23948; Directorate Identifier 2005–NM–246–AD.

Effective Date

(a) This AD becomes effective June 12, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; and Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; certificated in any category; that have received Airbus Modification 20024 in production (installation of a center tank), except airplanes on which Airbus Modification 24373 has been accomplished.

Unsafe Condition

(d) This AD results from reports that the low-pressure warning for the fuel pumps of the center fuel tank has come on in flight. We are issuing this AD to ensure that the fuel pumps do not run while dry, which could result in a potential ignition source inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Modification

(f) Within 20 months after the effective date of this AD, modify the wiring to the fuel pump control of the center fuel tank by doing all actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–28–1059, Revision 06, dated June 29, 2000.

Actions Done in Accordance With Previous Revisions of Service Bulletin

(g) Modifications done before the effective date of this AD in accordance with the service bulletins identified in Table 1 of this AD are acceptable for compliance with the requirements of paragraph (f) of this AD.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETIN

Airbus Service Bulletin	Revision level	Date
A320–28–1059	04	February 3, 1999.
A320–28–1059	05	March 12, 1999.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) French airworthiness directive F–2005–173, dated October 26, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Airbus Service Bulletin A320–28–1059, Revision 06, dated June 29, 2000, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/*

code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on April 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–4232 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9256]

RIN 1545–BD97

Revised Regulations Concerning Disclosure of Relative Values of Optional Forms of Benefit; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations that were published in the **Federal Register** on Friday, March 24, 2006 (71 FR 14798) concerning content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans.

DATES: This correction is effective March 24, 2006.

FOR FURTHER INFORMATION CONTACT: Bruce Perlin or Linda Marshall at (202) 622–6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9256) that are the subject of this correction are under section 417 of the Internal Revenue Code.

Need for Correction

As published, (TD 9256) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9256), which was the subject of FR Doc. 06–2844, is corrected as follows:

On page 14801, in the preamble, column 3, under the paragraph heading, ''Explanation of Provisions'', first paragraph of the column, line 2 from the bottom of the paragraph, the language ''75% survivor annuity, and joint and'' is corrected to read ''75% survivor annuity, and the joint and''.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 06–4271 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9261]

RIN 1545–BF32

Intercompany Transactions; Manufacturer Incentive Payments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 1502 of the Internal Revenue Code. *Example 13* of the intercompany transaction regulations illustrates the treatment of manufacturer incentive payments. Because a premise underlying the example is under reconsideration, these final regulations remove and reserve this example. The regulations will affect corporations filing consolidated returns.

DATES: *Effective Date:* These regulations are effective May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Frances Kelly, (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1.1502–13 of the consolidated return regulations provides rules for taking into account items of income, gain, deduction, and loss of members from intercompany transactions. In particular, § 1.1502–13(c)(7)(ii), *Example 13* illustrates how the matching rule of the intercompany transaction regulations treats a transaction involving manufacturer incentive payments. On August 13, 2004, the IRS and Treasury Department published a notice of proposed rulemaking (REG–131264–04) in the **Federal Register** (69 FR 50112) proposing regulations to address additional transactions involving manufacturer incentive payments and to clarify the proper treatment of such incentive payments under the intercompany transaction regulations.

On April 25, 2005, the IRS and Treasury Department published Rev. Rul. 2005–28 (2005–19 IRB 997), which suspends, in part, Rev. Rul. 76–96 (1976–1 CB 23). Rev. Rul. 2005–28 states that the IRS will not apply, and taxpayers may not rely upon, the conclusion reached in Rev. Rul. 76–96 that certain rebates made by a manufacturer to retail customers are ordinary and necessary business expenses deductible under section 162, pending the IRS's reconsideration of the issue and publication of subsequent guidance.

Explanation of Provisions

The manufacturer incentive payment transaction described in § 1.1502–13(c)(7)(ii), *Example 13* relies, in part, upon the premise that the manufacturer incentive payment is an ordinary and necessary business expense deductible under section 162. To the extent that this premise is correct, this example illustrates the proper application of the intercompany transaction regulations. However, because Rev. Rul. 2005–28 suspends Rev. Rul. 76–96, in pertinent part, these final regulations remove § 1.1502–13(c)(7)(ii), *Example 13* pending further guidance on the section 162 issue considered in Rev. Rul. 76–96.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. These final regulations do not alter substantive provisions of the intercompany transaction regulations. They merely remove an example which may be misleading and cause confusion for taxpayers. Accordingly, good cause is found for dispensing with prior notice and comment pursuant to 5 U.S.C. 553(b), and for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Drafting Information

The principal author of these regulations is Frances Kelly of the Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–13 also issued under 26 U.S.C. 1502. * * *

§ 1.1502–13 [Amended]

■ **Par. 2.** In § 1.1502–13, paragraph (c)(7)(ii), *Example 13* is removed and reserved.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: April 28, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 06–4273 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9256]

RIN 1545–BD97

Revised Regulations Concerning Disclosure of Relative Values of Optional Forms of Benefit; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on Friday, March 24, 2006 (71 FR 14798) concerning content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans.

DATES: This correction is effective March 24, 2006.

FOR FURTHER INFORMATION CONTACT: Bruce Perlin or Linda Marshall at (202) 622–6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9256) that are the subject of this correction are under section 417 of the Internal Revenue Code.

Need for Correction

As published, (TD 9256) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.417(a)(3)–1 [Corrected]

■ 2. Section 1.417(a)(3)–1(c)(5)(ii)(B) is amended by removing the language ''Similarly, a participant is entitled'' and adding the language ''Similarly, if a participant is entitled''.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 06–4270 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0314; FRL–8165–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments To Stage II Vapor Recovery at Gasoline Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions clarify system testing and reporting requirements for gasoline dispensing facilities that are currently required to implement Stage II Vapor Recovery. EPA is proposing to approve these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on July 7, 2006 without further notice, unless EPA receives adverse written comment by June 7, 2006. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0314, by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. E-mail: *morris.makeba@epa.gov*

C. Mail: EPA–R03–OAR–2006–0314, Makeba Morris, Chief, Air Quality Programs Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0314. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the

http://www.regulations.gov index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION: This section is organized as follows:

I. What Action Is EPA Taking?

EPA is proposing to approve Maryland's Amendments to Regulations .04 and .07 under COMAR 26.11.24 Stage II Vapor Recovery at Gasoline Dispensing Facilities, and incorporate these changes into the Maryland SIP. The amendments were proposed by the Maryland Secretary of the Environment on December 10, 2004, went to public hearing on January 11, 2005, were adopted on January 26, 2005, finalized on February 18, 2005 and became effective on February 28, 2005. The Maryland Department of the Environment submitted these amendments (Revision #05–02) to EPA as a SIP revision on March 15, 2005.

II. What Are the CAA Requirements For Stage II Programs?

The 1990 Clean Air Act required states to develop regulations requiring Stage II Vapor Recovery in severe and serious ozone nonattainment areas. Stage II is the control of gasoline vapors when dispensing gasoline into vehicle fuel tanks. This program was implemented in Maryland in January 1993, with a requirement for system installation at service stations owned by oil companies that had a monthly throughput of 10,000 gallons or more, and for other dispensing facilities with a monthly throughput of 50,000 gallons or more. Maryland's Stage II regulations were submitted as a SIP revision to EPA on January 18, 1993, and approved by EPA on June 9, 1993 (54 FR 29730). Maryland submitted revisions to these regulations as a SIP revision on May 23, 2002, which were approved by EPA on May 7, 2003 (68 FR 24363).

III. What Revisions Did Maryland Make To its Stage II Rule?

The Amendments to Regulations .04 and .07 under COMAR 26.11.24 that are the subject of this rulemaking will:

(1) Clarify that the Healy Stage II system does not require a liquid blockage test because the vacuum assist pump is located at the storage tank;

(2) Delete the requirement to test the automatic shutoff mechanism each month because it is observed or inspected daily similar to all other Stage II approved equipment;

(3) Clarify that test failures are to be reported to the Department within 5 days; and

(4) Require a facility to notify the Department at least 5 days before performing a test and that the test results be submitted to the Department within 45 days.

IV. Why Is EPA Approving Maryland's Revised Stage II Rule?

EPA has reviewed the revisions to Regulations .04 and .07 under COMAR 26.11.24 and has determined that the revisions continue to meet the requirements for states to have approved Stage II Vapor Recovery Systems. In addition, the revisions strengthen the SIP by providing additional clarification for testing and reporting requirements to the Department.

V. Final Action

EPA is approving the revisions to Maryland's Stage II regulations submitted to EPA on March 15, 2005. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 7, 2006 without further notice unless EPA receives adverse comment by June 7, 2006. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established

in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule''; as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this approval of Maryland's Amendments to Stage II Vapor Recovery Regulations must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 24, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entries for COMAR 26.11.24 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR § 52.1100
*	* * * * *		*	*
26.11.24	**Stage II Vapor Recovery at Gasoline Dispensing Facilities**			
*	* * * * *		*	*
26.11.24.04	Testing Requirements	2/28/05	5/8/06 [Insert page number where the document begins]	
*	* * * * *		*	*
26.11.24.07	Recordkeeping and Reporting Requirements	2/28/05	5/8/06 [Insert page number where the document begins]	
*	* * * * *		*	*

* * * * *

[FR Doc. 06–4199 Filed 5–5–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2005–0170; FRL–8167–5]

Regulation of Fuels and Fuel Additives: Removal of Reformulated Gasoline Oxygen Content Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: In the Energy Policy Act of 2005 (Energy Policy Act), Congress amended section 211(k) of the Clean Air Act (CAA) to remove the oxygen content requirement for reformulated gasoline (RFG). On February 22, 2006, EPA published a direct final rule to amend regulations to remove the oxygen content standard and associated compliance requirements from the RFG regulations. We stated in the direct final rule that if EPA received adverse comment, we would publish a timely withdrawal of the provisions on which we received adverse comment and address the adverse comments in a subsequent final rule based on a parallel notice of proposed rulemaking also published on February 22, 2006. We received adverse comment on the amendments to remove the oxygen content standard in the direct final rule. As a result, in a separate action we are withdrawing those amendments from the direct final rule. This final action addresses the adverse comments we received and finalizes the removal of the oxygen content standard and associated compliance requirements from the RFG regulations.

DATES: This final rule is effective on May 5, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2005–0170. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Marilyn Bennett, Transportation and Regional Programs Division, Office of Transportation and Air Quality (6406J), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343–9624; fax number: (202) 343–2803; e-mail address: *Bennett.marilyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially affected by this action include those involved with the production and importation of reformulated gasoline motor fuel. Regulated categories and entities affected by this action include:

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum Refiners, Importers.
Industry	422710	5171	Gasoline Marketers and Distributors.
	422720	5172	
Industry	484220	4212	Gasoline Carriers.
	484230	4213	

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of part 80, subparts D, E and F of title 40 of the Code of Federal Regulations. If you have any question regarding applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section above.

B. Outline of This Preamble

II. Direct Final Rule/Notice of Proposed Rulemaking

In the Energy Policy Act, Congress amended section 211(k) of the CAA to remove the 2.0 weight percent oxygen content requirement for RFG.[1] Congress specified that the effective date for the removal of the oxygen content requirement in the CAA is 270 days from enactment of the Energy Policy Act for gasoline sold in all states except California.[2] To be consistent with the current CAA section 211(k), on February 22, 2006, EPA published a direct final rule designed to remove the oxygen content standard and associated compliance requirements from the RFG regulations in 40 CFR part 80, effective on May 5, 2006 (270 days from enactment of the Energy Policy Act).[3] 71

[1] Energy Policy Act of 2005, Public Law No. 109–58 (HR6), section 1504(a), 119 STAT 594, 1076–1077 (2005).

[2] Congress removed the oxygen content requirement in CAA section 211(k) for California gasoline effective upon enactment of the Energy Policy Act. In a direct final rule published on February 22, 2006, EPA removed the oxygen content requirement from the RFG regulations for California gasoline, effective April 24, 2006. 71 FR 8965. Thus, this rule does not address California requirements.

[3] The direct final rule also amended the regulations at 40 CFR part 80 to revise a prohibition against commingling ethanol-blended VOC-controlled RFG with non-ethanol-blended VOC-controlled RFG, and implemented a provision of the Energy Policy Act which allows retailers to commingle ethanol-blended RFG with non-ethanol-blended RFG under certain limited circumstances. Energy Policy Act of 2005, Public Law 109–58 (HR6), section 1513, 119 STAT 594, 1088–1090 (2005). We did not receive adverse comment on the

Continued

FR 8973. We stated in the direct final rule that if EPA received adverse comment, we would publish a timely withdrawal of the provisions on which we received adverse comment and address all public comments in a subsequent final rule based on a parallel notice of proposed rulemaking also published on February 22, 2006. We received adverse comment on the removal of the oxygen content standard in the direct final rule. As a result, in a separate action we are withdrawing those amendments from the direct final rule. This final action addresses the adverse comments we received and finalizes the amendments which remove the oxygen content standard and associated compliance requirements from the RFG regulations in 40 CFR part 80.

As discussed below, Congress considered the issue of lead-time regarding the transition to an RFG program that does not mandate an oxygen requirement, and specifically determined that 270 days from enactment of the Energy Policy Act provides an appropriate amount of lead-time. We believe it is appropriate to effect the removal of the oxygen content standard from the RFG regulations in a manner that is consistent with Congress' clear determination regarding lead-time. Therefore, this final rule is effective May 5, 2006. Although the Administrative Procedures Act generally requires that publication of a rule in the **Federal Register** take place thirty days before its effective date, this requirement is not applicable where, as here, a rule relieves a restriction.

III. Response to Comments and Discussion

We received adverse comments on the direct final rule from three parties. Two of the parties stated that the removal of the RFG oxygen content requirement will result in the discontinued use of MTBE because refiners believe that the oxygen requirement provides a legal defense in leaking underground storage tank lawsuits involving MTBE. These commenters believe that refiners will attempt to replace MTBE with ethanol to meet the RFG performance standards, but argue that supplies of ethanol are inadequate to provide the volumes needed to replace MTBE in 2006. The commenters acknowledge that Congress eliminated the oxygen content requirement to provide refiners with greater flexibility to make RFG; nevertheless, they believe that an abrupt shift from MTBE-blended RFG to ethanol-blended RFG will cause a shortage in gasoline supplies, higher gasoline prices, and distribution problems relating to rail, barge and terminal availability. These commenters also believe that the removal of the oxygen content requirement will result in an increase in aggregate ozone-causing emissions, since, relative to MTBE-blended RFG, ethanol-blended RFG has a higher Reid Vapor Pressure causing VOC emissions to increase, and yields higher emissions of air toxics, NO_X and VOC emissions associated with permeation. To mitigate the impacts of removing the oxygen content standard, these commenters urge EPA to issue a transition rule. The commenters suggest that in developing such a transition rule, EPA should examine the dynamics of gasoline production and assess any adverse impacts on gasoline supplies and cost, determine the feasibility of transporting increased quantities of ethanol and ascertain whether an adequate delivery infrastructure exists to prevent gasoline shortfalls, and quantify the effect of additional permeation emissions and take these into account. They believe that the transition rule should expressly preempt future state common law product defect claims regarding EPA-approved fuels or fuel additives and affirm that MTBE is not a defective product. They also believe that EPA should increase the RFG VOC reduction requirement to address backsliding that they believe will occur if MTBE-blended RFG is replaced with ethanol-blended RFG or non-oxygenated RFG. One of the commenters believes that EPA should include a VOC control season oxygen content standard under its CAA 211(c) authority.

EPA believes that it should revise the RFG regulations in a way that is consistent with Congress' decision in enacting the Energy Policy Act provisions to repeal the oxygenate requirement for RFG. During the course of its consideration and final action to approve the Energy Policy Act, Congress specifically determined that there should not be an oxygen content requirement in the RFG provisions in section 211(k) of the CAA, and determined how much lead-time should be provided for the transition to a program where the CAA did not mandate an oxygen content standard. In the legislative provisions it drafted and approved on this matter, Congress explicitly struck all oxygenate content requirements for RFG from the CAA and provided precise applicability dates for the removal of this requirement in California and the rest of the United States. Given Congress' clear decision that the oxygen content mandate is removed from the RFG provisions in the CAA in California as of August 8, 2005 and in all other states as of May 5, 2006, EPA believes that it is appropriate to revise the RFG regulations in a manner that conforms to this specific decision by Congress. As discussed below, EPA does not believe that the current circumstances warrant any different course of action. In fact, it is notable that Congress had before it many of the issues involving MTBE that are raised by the commenters, yet it did not act to condition removal of the oxygenate requirement based on any finding or interpretation by EPA with respect to these matters.

With respect to comments received with regard to promulgation of a transition rule to mitigate the impacts of removing the oxygen content requirement, EPA adopted the RFG regulations, including the oxygen content requirement, in 1994. EPA noted that it was adopting the regulations pursuant to its authority under section 211(k) of the CAA, and explained that it was also appropriate to issue the regulations under section 211(c)'s general authority to regulate fuels and fuel additives. EPA issued the RFG rules under both parts of section 211 for a limited reason, so that the express preemption provision in section 211(c)(4)(A) would apply to the federal fuel program issued under section 211(k). See 59 FR 7716, 7809 (February 16, 1994). Now that Congress has amended section 211(k) to remove the oxygen content requirement, it is fully consistent with Congress' decision and with the reasoning of EPA's prior rulemaking to remove this requirement from the current RFG regulations.

We believe that delaying the removal of the oxygen content requirement from the RFG regulations and issuing a transition rule is likely to be more disruptive to the production and distribution of RFG than removal by May 5 of the oxygen requirement from the regulations. It is not likely to provide solutions to the concerns raised by commenters. First, because of the refiner liability concerns discussed above, and Congress' removal of the oxygen content requirement from section 211(k) of the CAA and related adoption of a renewable fuels mandate in the Energy Policy Act, the shift from MTBE-blended RFG to ethanol-blended RFG will likely occur regardless of when EPA removes the RFG oxygen content requirement from the regulations. It is therefore uncertain

amendments to the commingling prohibition or on the retailer commingling provisions during the 30-day comment period. The effective date for those amendments and provisions is May 5, 2006.

whether there would be any significant difference in MTBE use even if EPA were to adopt a transition rule. In fact, major suppliers for months have been planning and investing in a transition away from MTBE and to ethanol before the 2006 summer driving season and they have in many, perhaps most cases, already completed that transition.[4] Second, some refiners and distributors have indicated that uncertainty is of the greatest concern to the RFG production and distribution industry, and have urged EPA to finalize the removal of the oxygen requirement from the regulations as soon as possible. These refiners and distributors believe that certainty regarding the effective date of the removal of the oxygen requirement is needed by refiners and distributors to minimize potential supply impacts. No refiners or other parties in the distribution system have indicated that the immediate removal of the oxygen requirement would cause additional supply or distribution problems, or would solve or reduce any difficulties in making the transition. Many assumed that Congress's May 5 date was a certain date for elimination of the oxygen content requirement.[5] A transitional delay in this program would create more uncertainty for those planning on May 5 as the certain date and could clearly disrupt potential plans for gasoline manufacturers who were considering the use of non-oxygenated RFG. EPA believes that, if anything, delaying the removal would disrupt the production and distribution of RFG and would not solve or alleviate any of the economic or supply concerns raised by commenters. Last, with regard to the commenters' air quality concerns, the removal of the oxygen content requirement from the regulations does not change any of the emissions performance standards that RFG must meet. To the extent the commenters are raising concerns about the underlying emissions performance standards for RFG, we believe that this rulemaking is not the appropriate action in which to address these concerns. We intend to conduct a broad analysis of the impact of ethanol-blended gasoline on air quality in the context of a separate rulemaking to implement the renewable fuels mandate in the Energy Policy Act. In addition Congress mandated that within two years of enactment of the Energy Policy Act, that EPA conduct a study of the effects on public health related to substitutes (such as ethanol) for MTBE in gasoline. See amended CAA section 211(b)(4). EPA believes it is not appropriate to try to resolve the questions raised by commenters prior to the development of the information expected through these analyses, and that EPA should not delay removal of the oxygen content requirement for the reasons described above. For these reasons, we believe that the benefits of finalizing the removal of the oxygen requirement from the regulations and the likely adverse impact of a transition rule clearly outweigh the uncertain benefits of a transition rule.

A third commenter expressed concern that use of non-oxygenated RFG may result in increased air toxics and other harmful air pollutants. This commenter believes that the rule removing the oxygen content requirement should require non-oxygenated RFG to maintain the air quality benefits derived from the oxygen requirement. The commenter is particularly concerned that over-compliance with the air toxics standards may not be maintained with the introduction of non-oxygenated RFG.

First, we note that, although refiners will have the flexibility to produce RFG without oxygen, they nevertheless must meet all other standards and requirements for RFG, including the VOC, NO_X and toxics emissions performance standards. In addition, the Mobile Source Air Toxics (MSAT) rule imposes baseline requirements designed to maintain 1998–2000 levels of over-compliance with the toxics emissions performance standards.[6] We believe, and discussions with refiners confirm, that many, probably the vast majority of refiners and importers will continue to use oxygenates in order to meet these standards. In the Energy Policy Act, Congress considered the need for even more stringent controls on air toxics, and addressed this need by requiring EPA to revise the baseline years for toxics compliance.[7] Finally, EPA recently proposed additional controls on benzene and other air toxics, which we believe will meet or exceed the additional controls mandated by the Energy Policy Act.[8] We believe that these controls are appropriate and will ensure that there will be no loss in air quality benefits resulting from the removal of the RFG oxygen content requirement. In summary, first, Congress considered the need for increased toxics controls in association with other measures in the Energy Policy Act and EPA will defer to the decisions made by Congress and, second, EPA has already proposed other methods of controlling toxics under its authority in section 211 of the Clean Air Act.

IV. Conclusion

EPA concludes that it is appropriate to remove the oxygen content requirement from the RFG regulations at this time. This is consistent with Congress' recent decision on this issue, and a delay in making this change to the RFG regulations would not be appropriate under current circumstances.

V. Action

This action finalizes, as proposed, the amendments to 40 CFR part 80 which remove the oxygen content standard and associated compliance requirements from the RFG regulations. The affected sections are listed in the following table: [9]

§ 80.2(ii)	Removes oxygen in the definition of ''reformulated gasoline credit.'' With the removal of the oxygen standard, there is no basis for the generation of oxygen credits.
§ 80.41(e) and (f) [10]	Removes the per-gallon and averaged oxygen standards for Phase II Complex Model RFG.
§ 80.41(o)	Removes the provisions relating to oxygen survey failures. With the removal of the oxygen standard, oxygen surveys will no longer be needed.
§ 80.41(q)	Removes reference to § 80.41(o). Also removes reference to oxygenate blenders since oxygenate blenders were subject only to adjusted standards in the case of an oxygen survey failure and not any other survey failure.

[4] Memorandum to Docket from Chris McKenna (April 24, 2006); Energy Information Administration, ''Eliminating MTBE in Gasoline in 2006'' (February 22, 2006).

[5] Letter to William Wehrum, USEPA, from Edward Murphy, American Petroleum Institute, Bob Slaughter, National Petrochemical and Refiners Association, Gregory M. Scott, Society of Independent Gasoline Marketers Association, John Eichberger, National Association of Convenience Stores, Joe Sparano, Western Petroleum Association, dated December 9, 2005.

[6] 66 FR 17230 (March 29, 2001).

[7] Energy Policy Act of 2005, Public Law No. 109–58 (HR6), § 1504(b), 119 STAT, 1077–1078 (2005).

[8] 71 FR 15804 (March 29, 2006).

[9] This final action also lifts a stay, previously published on November 28, 1994 (59 FR 60715), which was in effect regarding § 80.65(d)(2)(vi) and § 80.129(a), (d)(3)(iii), (d)(3)(iv), and (d)(3)(v). The stay is no longer appropriate in light of today's amendments to these sections.

§ 80.65 heading	Removes oxygenate blenders from the heading since oxygenate blenders were only responsible for demonstrating compliance with the oxygen standard which has been removed.
§ 80.65(c)	Removes requirements relating to compliance with the oxygen standard which have been removed.
§ 80.65(d)	Removes the designation requirement relating to oxygen content, removes the RBOB designation categories of ''any oxygenate'' and ''ether only,'' and adds a requirement for RBOB to be designated regarding the type and amount of oxygenate required to be added.
§ 80.65(h)	Removes the requirement for oxygenate blenders to comply with the audit requirements under subpart F since they will no longer be required to demonstrate compliance with the oxygen standard.
§ 80.67(a)	Removes the option to comply with the oxygen standard on average for oxygenate blenders since there no longer is an oxygen standard. Also removes provisions for refiners and importers to use gasoline that exceeds the average standard for oxygen to offset gasoline which does not achieve the average standard for oxygen.
§ 80.67(b)	Removes requirements relating to oxygenate blenders who meet the oxygen standard on average, since there no longer is an oxygen standard.
§ 80.67(f)	Removes requirements relating to compliance with the oxygen standard on average since there no longer is an oxygen standard.
§ 80.67(g)	Removes requirements relating to compliance calculations for meeting the oxygen standard on average, since there no longer is an oxygen standard. Also removes requirements relating to the generation and use of oxygen credits. Specifies two compliance calculation options for average xygen content for 2006.
§ 80.67(h)	Removes requirements relating to the transfer of oxygen credits.
§ 80.68(a) and (b)	Removes references to oxygenate blenders since, with the removal of the requirement for oxygen survey, they are no longer subject to survey requirements. Also removes reference to oxygen regarding consequences of a failure to conduct a required survey.
§ 80.68(c)	Removes general survey requirements relating to oxygen surveys.
§ 80.73	Clarifies the applicability of this section to oxygenate blenders.
§ 80.74(c)	Removes recordkeeping requirements for oxygenate blenders who comply with the oxygen standard on average, since they no longer will be required to demonstrate compliance with an oxygen standard. Also removes reference to ''types'' of credits, since there now is only one type of credit (*i.e.,* benzene.)
§ 80.74(d)	Revises this paragraph to clarify recordkeeping requirements for oxygenate blenders.
§ 80.75 heading and paragraph (a)	Removes reporting requirements for oxygenate blenders since they no longer will be required to demonstrate compliance with an oxygen standard.
§ 80.75(f)	Removes requirement for submitting oxygen averaging reports since there no longer is a requirement to comply with the oxygen standard.
§ 80.75(h)	Removes credit transfer report requirements for oxygen credits, since oxygen credits will no longer be generated.
§ 80.75(i)	Removes requirement for oxygenate blenders to submit a report identifying each covered area that was supplied with averaged RFG, since they no longer will be required to demonstrate compliance with an oxygen standard.
§ 80.75(l)	Removes reporting requirement for oxygenate blenders who comply with the oxygen standard on a per-gallon basis, since they are no longer required to demonstrate compliance with an oxygen standard.
§ 80.75(m)	Removes requirement for oxygenate blenders to submit a report of the audit required under § 80.65(h), since oxygenate blenders will no longer be required to comply with the audit requirement.
§ 80.75(n)	Removes requirement for oxygenate blenders to have reports signed and certified, since they no longer will be required to submit reports under this section.
§ 80.76(a)	Clarifies registration requirements for oxygenate blenders.
§ 80.77(g)	Removes product transfer documentation requirement for oxygen content.
§ 80.77(i)	Removes requirement for RBOB to be identified on product transfer documents as suitable for blending with ''any-oxygenate,'' ''ether-only,'' since these categories have been removed.
§ 80.78(a)	Removes the prohibition against producing and marketing RFG that does not meet the oxygen minimum standard since the oxygen standard has been removed. Also removes requirements to meet the oxygen minimum standard during transition from RBOB to RFG in a storage tank. (Today's rule also removes the provision in § 80.78(a)(1) regarding compliance with the maximum oxygen standard in § 80.41 for simple model RFG. See footnote 3.)
§ 80.79	Removes quality assurance requirement to test for compliance with the oxygen standard.
§ 80.81(b)	Removes exemptions for California gasoline survey and independent analysis requirements for oxygenate blenders since they are no longer subject to these requirements.
§ 80.125(a), (c) and (d)	Removes attest engagement auditor requirements for(c) and (d) oxygenate blenders, since they are no longer required to conduct attest engagement audits.
§ 80.126(b)	Revises attest engagement definition of credit trading records to remove reference to oxygen credits.
§ 80.128(e)	Removes reference to RBOB designations of''any-oxygenate'' and ''ether-only'' with regard to refiner and importer contracts with downstream oxygenate blenders, since these designations have been removed from the regulations.
§ 80.129	Removes and reserves this section which provided for alternative attest engagement procedures for oxygenate blenders, since they are no longer required to conduct attest audits.
§ 80.130(a)	Removes requirement for a certified public accountant or an internal auditor certified by the Institute of Internal Auditors, Inc. to issue an attest engagement report to blenders, since they are no longer required to conduct attest audits. Removes requirement for blenders to providea copy of the auditor's report to EPA.

§ 80.133(h)	Removes references to ''any-oxygenate'' and ''ether-only'' RBOB under § 80.69(a)(8) since this section has been removed.
§ 80.134	Removes this section which provides attest procedures for oxygenate blenders since they are no longer required to conduct attest audits.

Today's rule also modifies the provisions for downstream oxygenate blending in § 80.69. Under the current regulations, some refiners and importers produce or import a product called ''reformulated gasoline blendstock for oxygenate blending,'' or RBOB, which is gasoline that becomes RFG upon the addition of an oxygenate. The refiner or importer of the RBOB determines the type(s) and amount (or range of amounts) of oxygenate that must be added to the RBOB. The RBOB is then transported to an oxygenate blender downstream from the refiner or importer who adds the type and amount of oxygenate designated for the RBOB by the refiner or importer. The RBOB refiner or importer includes the designated amount of oxygenate in its emissions performance compliance calculations for the RBOB; however, it is the oxygenate blender who actually adds the oxygenate to the RBOB to comply with the 2.0 weight percent oxygen standard for the RFG that is produced by blending oxygenate into the RBOB. The regulations require oxygenate blenders to conduct testing for oxygen content to ensure that each batch of RFG complies with the oxygen standard. With the removal of the oxygen standard, the current requirement for oxygenate blenders to conduct testing to ensure compliance with the oxygen standard will no longer be necessary. Accordingly, the provisions for oxygenate blenders in § 80.69 have been modified to remove the requirement for oxygenate blenders to test RFG for compliance with the oxygen standard.

Although there will no longer be an oxygen content requirement for RFG, we believe that many refiners and importers will want to continue to include oxygenate blended downstream in their emissions performance compliance calculations. As a result, the category of RBOB is being retained and RBOB refiners and importers will continue to be required to comply with the contract and quality assurance (QA) oversight requirements in § 80.69.[11] Because oxygenate blenders will no longer be conducting testing to ensure compliance with the oxygen standard, we believe that RBOB refiner or importer compliance with the contract and QA oversight requirements will be necessary for RBOB designated to be blended with any amount of oxygenate, including an amount of oxygenate that would result in RFG containing 2.0 weight percent (or less) oxygen. As a result, the generic categories of oxygenate in § 80.69(a)(8) are eliminated by today's rule and RBOB refiners and importers will be required to comply with the contract and QA oversight requirements in § 80.69 for any RBOB produced or imported. This approach is consistent with the oversight requirements in § 80.101(d)(4) for refiners and importers of conventional gasoline who wish to include oxygen added downstream from the refinery or importer in anti-dumping emissions compliance calculations.

Although oxygenate blenders will no longer be subject to the oxygen standard and associated testing requirements, we believe that the current requirements for oxygenate blenders to be registered with EPA, to add the specific type(s) and amount (or range of amounts) of oxygenate designated for the RBOB, and to maintain records of their blending operation continue to be necessary in order to ensure compliance with, and facilitate enforcement of, the emissions performance standards for the RFG produced by blending oxygenate with RBOB downstream. As a result, these oxygenate blender requirements are being retained.

The effective date for the removal of the oxygen requirement will occur during 2006. As a result, refiners, importers and oxygenate blenders will be subject to the oxygen standard for the months in 2006 prior to the effective date of this rule. The current regulations allow parties to demonstrate compliance either on a per-gallon basis or on an annual average basis. Since the oxygen content standard is being removed during an annual averaging period, EPA has modified the regulations to reflect this change and to clarify how parties would demonstrate compliance with the average oxygen content standard for 2006. Parties may demonstrate compliance based on the average oxygen content of RFG during the months prior to the effective date for the removal of the oxygen content requirement. In addition, any refiner, importer or oxygenate blender may demonstrate compliance based on all of the oxygenated RFG it produces or imports during 2006. This means a refiner or importer has two options to show compliance with the average oxygen content standard for 2006. The first option looks only at the RFG produced or imported from January 1, 2006 through the effective date of this rule. During this time period, the per-gallon minimum was in place for RFG, so all of the RFG would have been oxygenated. The refiner or importer would be in compliance if they could show that they meet the 2.1% average standard based on the volume and oxygen content of all of the RFG produced or imported during this time period. The second option looks at the RFG produced or imported from January 1, 2006 through December 31, 2006. Since there is no per gallon minimum for oxygen content starting from the effective date of this rule, some but not necessarily all of the RFG produced during the year would have been oxygenated. The refiner or importer would be in compliance if they could show that they meet the 2.1% average standard based on the RFG volume and oxygen content of all of the oxygenated RFG produced or imported during this time period, *i.e.*, the entire year. Any non-oxygenated RFG produced or imported after the effective date of the rule may be excluded from compliance calculations.

[10] The regulations also include oxygen minimum standards for simple model RFG and Phase I complex Model RFG, and an oxygen maximum standard for simple model RFG. *See* §§ 80.41(a) through (d), and (g). These standards are no longer in effect and today's rule does not modify the regulations to remove these standards or compliance requirements relating to these standards, except where such requirements are included in provisions requiring other changes in today's rule.

[11] EPA intends to promulgate a rule which will allow RBOB refiners and importers to use an alternative method of quality assurance (QA) oversight of downstream oxygenate blenders in lieu of the contract and QA requirements in §§ 80.69(a)(6) and (a)(7). This alternative method consists of a QA sampling and testing survey program carried out by an independent surveyor pursuant to a survey plan approved by EPA. EPA is currently allowing use of this alternative QA method under a grant of enforcement discretion that is scheduled to expire when the rule is promulgated, or December 31, 2007, whichever is earlier. *See* Letter to Edward H. Murphy, Downstream General Manager, American Petroleum Institute, dated December 22, 2005, from Grant Y. Nakayama, Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this direct final rule does not satisfy the criteria stated above. As a result, this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Today's final rule removes certain requirements applicable to refiners, importers and oxygenate blenders of RFG. As such this rule is expected to reduce overall compliance costs for all refiners, importers and oxygenate blenders.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This rule will have the effect of reducing the burdens on certain regulated parties under the reformulated gasoline regulations. All parties currently subject to the requirement to submit an annual oxygen averaging report will no longer be required to submit such report. Oxygenate blenders currently subject to the following requirements will no longer be subject to these requirements and associated burdens: RFG batch reports, RFG annual reports, RFG survey reports, and RFG attest engagement reports. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 80 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0277, EPA ICR number 1591. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this rule.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This final rule removes certain requirements applicable to all refiners, importers and oxygenate blenders of RFG, including small business refiners, importers and oxygenate blenders. Specifically, this rule removes the burden on refiners, importers and oxygenate blenders to comply with the RFG oxygen requirement and associated compliance requirements. Although in certain situations some refiners and importers, including some small refiners and importers, may be required to conduct some additional oversight of oxygenate blenders, we believe that the burden of any additional oversight will be of minor significance compared to the relief from the burden of complying with the oxygen requirement. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities subject to the RFG regulations.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes

any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector that will result in expenditures of $100 million or more. This rule affects gasoline refiners, importers and oxygenate blenders by removing the oxygen content requirement for RFG and associated compliance requirements. As a result, this rule will have the overall effect of reducing the burden of the RFG regulations on these regulated parties. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule removes the oxygen standard for RFG. The requirements of the rule will be enforced by the Federal government at the national level. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule applies to gasoline refiners and importers who supply RFG, and to other parties downstream in the gasoline distribution system. Today's action contains certain modifications to the federal requirements for RFG, and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is not economically significant and does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Acts That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not an economically ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it does not have a significant adverse effect on the supply, distribution, or use of energy. This rule eliminates the oxygen content requirement for RFG and associated compliance requirements. This change will have the effect of reducing burdens on suppliers of RFG, which, in turn, may have a positive effect on gasoline supplies. RFG refiners and blenders may continue to use oxygenates at their discretion where and when it is most economical to do so. With the implementation of the renewable fuels standard also contained in the Energy Act, the blending of ethanol, in particular, into gasoline is expected to increase considerably, not decrease. Therefore, despite this action to remove the oxygenate mandate in RFG, when viewed in the context of companion energy legislation, overall use of oxygenates is expected to increase in the future.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not establish new technical standards within the meaning of the NTTAA. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule'' cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(a).

K. Clean Air Act Section 307(d)

This rule is subject to section 307(d) of the CAA. Section 307(d)(7)(B) provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to the EPA should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Director of the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

VII. Statutory Provisions and Legal Authority

The statutory authority for the actions in today's direct final rule comes from section 211 and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 2, 2006.

Stephen L. Johnson,

Administrator.

■ 40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a)).

■ 2. The stay on § 80.65(d)(2)(vi) and § 80.129(a), (d)(3)(iii), (d)(3)(iv), and (d)(3)(v), published on November 28, 1994 (59 FR 60715) is lifted.

Subpart A—[Amended]

■ 3. Section 80.2 is amended by revising paragraph (ii) to read as follows:

§ 80.2 Definitions.

* * * * *

(ii) *Reformulated gasoline credit* means the unit of measure for the paper transfer of benzene content resulting from reformulated gasoline which contains less than 0.95 volume percent benzene.

* * * * *

Subpart D—[Amended]

■ 4. Section 80.41 is amended by:

■ a. In the table in paragraph (e), removing the entry

''Oxygen content (percent, by weight) (does not apply to gasoline subject to the provisions in § 80.81) * * * ≥2.0 ;''

■ b. In the table in paragraph (f), removing the entry

''Oxygen content (percent by weight) (does not apply to gasoline subject to the provisions in § 80.81):

Standard * * * ≥2.1

Per-Gallon Minimum ≥1.5''

■ b. Removing and reserving paragraph (o); and

■ c. Revising paragraph (q) heading and introductory text and (q)(1) to read as follows:

§ 80.41 Standards and requirements for compliance.

* * * * *

(o) [Reserved]

* * * * *

(q) *Refineries and importers subject to adjusted standards.* Standards for average compliance that are adjusted to be more or less stringent by operation of paragraphs (k), (l) (m) or (n) of this section apply to average reformulated gasoline produced at each refinery or imported by each importer as follows:

(1) Adjusted standards for a covered area apply to averaged reformulated gasoline that is produced at a refinery if:

(i) Any averaged reformulated gasoline from that refinery supplied the covered area during any year a survey was conducted which gave rise to a standards adjustment; or

(ii) Any averaged reformulated gasoline from that refinery supplies the covered area during any year that the standards are more stringent than the initial standards; unless

(iii) The refiner is able to show that the volume of averaged reformulated gasoline from a refinery that supplied the covered area during any years under paragraphs (q)(1)(i) or (ii) of this section was less than one percent of the reformulated gasoline produced at the refinery during that year, or 100,000 barrels, whichever is less.

* * * * *

■ 5. Section 80.65 is amended by:

■ a. Revising the heading;

■ b. Revising paragraphs (c)(1)(ii) and (c)(3), removing paragraph (c)(1)(iii) and removing and reserving paragraph (c)(2);

■ c. Removing and reserving (d)(2)(v)(D); revising paragraph (d)(2)(vi) and (d)(3); and

■ d. Revising paragraph (h) to read as follows:

§ 80.65 General requirements for refiners and importers.

* * * * *

(c) * * *

(1) * * *

(ii) Those standards and requirements it designated under paragraph (d) of this section for average compliance on an average basis over the applicable averaging period.

(2) [Reserved]

(3)(i) For each averaging period, and separately for each parameter that may be met either per-gallon or on average, any refiner shall designate for each refinery, or any importer shall designate its gasoline or RBOB as being subject to the standard applicable to that parameter on either a per-gallon or average basis. For any specific averaging period and parameter all batches of gasoline or RBOB shall be designated as being subject to the per-gallon standard, or all batches of gasoline and RBOB shall be designated as being subject to the average standard. For any specific averaging period and parameter a refiner for a refinery, or any importer may not designate certain batches as being subject to the per-gallon standard and others as being subject to the average standard.

(ii) In the event any refiner for a refinery, or any importer fails to meet

the requirements of paragraph (c)(3)(i) of this section and for a specific averaging period and parameter designates certain batches as being subject to the per-gallon standard and others as being subject to the average, all batches produced or imported during the averaging period that were designated as being subject to the average standard shall, *ab initio*, be redesignated as being subject to the per-gallon standard. This redesignation shall apply regardless of whether the batches in question met or failed to meet the per-gallon standard for the parameter in question.

(d) * * *

(2) * * *

(v) * * *

(D) [Reserved]

* * * * *

(vi) In the case of RBOB, the gasoline must be designated as RBOB and the designation must include the type(s) and amount(s) of oxygenate required to be blended with the RBOB.

(3) Every batch of reformulated or conventional gasoline or RBOB produced or imported at each refinery or import facility shall be assigned a number (the ''batch number''), consisting of the EPA-assigned refiner or importer registration number, the EPA facility registration number, the last two digits of the year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced or imported each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (*e.g.*, 4321–54321–95–000001, 4321–543321–95–000002, etc.)

* * * * *

(h) *Compliance audits.* Any refiner and importer of any reformulated gasoline or RBOB shall have the reformulated gasoline and RBOB it produced or imported during each calendar year audited for compliance with the requirements of this subpart D, in accordance with the requirements of subpart F, at the conclusion of each calendar year.

* * * * *

■ 6. Section 80.67 is amended by:

■ a. Revising paragraphs (a)(1) and (a)(2)(i)(A);

■ b. Removing and reserving paragraph (b)(3);

■ c. Removing and reserving paragraph (f);

■ d. Revising paragraphs (g) introductory text, (g)(3), (g)(5) introductory text, (g)(6) introductory text, removing and reserving paragraphs (g)(5)(i) and (g)(6)(i); adding paragraph (g)(7); and

■ e. Revising paragraphs (h)(1) introductory text, (h)(1)(iv), (h)(1)(v) and (h)(3)(ii), and removing paragraphs (h)(1)(vi), (h)(1)(vii) and (h)(1)(viii), to read as follows:

§ 80.67 Compliance on average

* * * * *

(a) * * *

(1) Any refiner or importer that complies with the compliance survey requirements of § 80.68 has the option of meeting the standards specified in § 80.41 for average compliance in addition to the option of meeting the standards specified in § 80.41 for per-gallon compliance; any refiner or importer that does not comply with the survey requirements must meet the standards specified in § 80.41 for per-gallon compliance, and does not have the option of meeting standards on average.

(2)(i)(A) A refiner or importer that produces or imports reformulated gasoline that exceeds the average standard for benzene (but not for other parameters that have average standards) may use such gasoline to offset reformulated gasoline which does not achieve this average standard, but only if the reformulated gasoline that does not achieve this average standard is sold to ultimate consumers in the same covered area as was the reformulated gasoline which exceeds the average standard; provided that:

* * * * *

(b) * * *

(3) [Reserved]

* * * * *

(f) [Reserved]

(g) *Compliance calculation.* To determine compliance with the averaged standards in § 80.41, any refiner for each of its refineries at which averaged reformulated gasoline or RBOB is produced, and any importer that imports averaged reformulated gasoline or RBOB shall, for each averaging period and for each portion of gasoline for which standards must be separately achieved, and for each relevant standard, calculate:

* * * * *

(3) For the VOC, NO_X, and toxics emissions performance standards, the actual totals must be equal to or greater than the compliance totals to achieve compliance.

* * * * *

(5) If the actual total for the benzene standard is greater than the compliance total, credits for this parameter must be obtained from another refiner or importer in order to achieve compliance:

(i) [Reserved]

* * * * *

(6) If the actual total for the benzene standard is less than the compliance totals, credits for this parameter are generated.

(i) [Reserved]

* * * * *

(7) In 2006 only, compliance with the oxygen standards in § 80.41 may be based on the volume and oxygen content of all reformulated gasoline produced or imported during the period January 1, 2006, through May 5, 2006 or the volume and oxygen content of all oxygenated reformulated gasoline produced or imported during the 2006 annual averaging period (January 1 through December 31).

(h) * * *

(1) Compliance with the averaged standards specified in § 80.41 for benzene (but for no other standards or requirements) may be achieved through the transfer of benzene credits provided that:

* * * * *

(iv) The credits are transferred, either through inter-company or intra-company transfers, directly from the refiner or importer that creates the credits to the refiner or importer that uses the credits to achieve compliance; and

(v) Benzene credits are not used to achieve compliance with the maximum benzene content standards in § 80.41.

* * * * *

(3) * * *

(ii) No refiner or importer may create, report, or transfer improperly created credits; and

* * * * *

■ 7. Section 80.68 is amended by revising paragraphs (a) introductory text, (a)(3), (b) introductory text, (b)(4)(i), (b)(4)(ii), (c)(3), (c)(4)(i), and (c)(13)(v)(L), and removing and reserving paragraph (c)(12) to read as follows:

§ 80.68 Compliance surveys.

(a) *Compliance survey option 1.* In order to satisfy the compliance survey requirements, any refiner or importer shall properly conduct a program of compliance surveys in accordance with a survey program plan which has been approved by the Administrator of EPA in each covered area which is supplied with any gasoline for which compliance is achieved on average that is produced by that refinery or imported by that importer. Such approval shall be based upon the survey program plan meeting the following criteria:

* * * * *

(3) In the event that any refiner or importer fails to properly carry out an approved survey program, the refiner or

importer shall achieve compliance with all applicable standards on a per-gallon basis for the calendar year in which the failure occurs, and may not achieve compliance with any standard on an average basis during this calendar year. This requirement to achieve compliance per-gallon shall apply *ab initio* to the beginning of any calendar year in which the failure occurs, regardless of when during the year the failure occurs.

(b) *Compliance survey option 2.* A refiner or importer shall be deemed to have satisfied the compliance survey requirements described in paragraph (a) of this section if a comprehensive program of surveys is properly conducted in accordance with a survey program plan which has been approved by the Administrator of EPA. Such approval shall be based upon the survey program plan meeting the following criteria:

* * * * *

(4) * * *

(i) Each refiner or importer who supplied any reformulated gasoline or RBOB to the covered area and who has not satisfied the survey requirements described in paragraph (a) of this section shall be deemed to have failed to carry out an approved survey program; and

(ii) The covered area will be deemed to have failed surveys for VOC and NO_X emissions performance, and survey series for benzene and toxic and NO_X emissions performance.

(c) * * *

(3)(i) A VOC survey and a NO_X survey shall consist of any survey conducted during the period June 1 through September 15;

(ii) A sample of gasoline taken at a retail outlet or wholesale purchaser-consumer facility that has within the past 30 days commingled ethanol blended reformulated gasoline with non-ethanol blended reformulated gasoline in accordance with the provisions in § 80.78(a)(8) shall not be used in a VOC survey required under this section.

(4)(i) A toxics and benzene survey series shall consist of all surveys conducted in a single covered area during a single calendar year.

* * * * *

(12) [Reserved]

(13) * * *

(v) * * *

(L) The average toxics emissions reduction percentage for simple model samples and the percentage for complex model samples, the average benzene percentage, and for each survey conducted during the period June 1 through September 15, the average VOC emissions reduction percentage for simple model samples and the percentage for complex model samples, and the average NO_X emissions reduction percentage for all complex model samples;

* * * * *

■ 8. Section 80.69 is amended by:

■ a. Revising paragraphs (a)(6)(ii) and (iii), (a)(10) introductory text, removing and reserving paragraphs (a)(8) and (a)(9), and removing paragraph (a)(6)(iv);

■ b. Revising paragraph (b);

■ c. Removing and reserving paragraph (c);

■ d. Revising paragraph (d); and

■ e. Revising paragraph (e), to read as follows:

§ 80.69 Requirements for downstream oxygenate blending.

* * * * *

(a) * * *

(6) * * *

(ii) Allow the refiner or importer to conduct the quality assurance sampling and testing required under this paragraph (a); and

(iii) Stop selling any gasoline found not to comply with the standards under which the RBOB was produced or imported.

* * * * *

(8) [Reserved]

(9) [Reserved]

(10) Specify in the product transfer documentation for the RBOB each oxygenate type or types and amount or range of amounts which, if blended with the RBOB will result in reformulated gasoline which:

* * * * *

(b) *Requirements for oxygenate blenders.* For all RBOB received by any oxygenate blender, the oxygenate blender shall:

(1) Add oxygenate of the type(s) and amount (or within the range of amounts) specified in the product transfer documents for the RBOB; and

(2) Meet the recordkeeping requirements specified in § 80.74.

(c) [Reserved]

(d) *Requirements for distributors dispensing RBOB into trucks for blending.* Any distributor who dispenses any RBOB into any truck which delivers gasoline to retail outlets or wholesale purchase-consumer facilities, shall for such RBOB so dispensed:

(1) Transfer the RBOB only to an oxygenate blender who has registered with the Administrator or EPA as such; and

(2) Obtain from the oxygenate blender the oxygenate blender's EPA registration number.

(e) *Additional requirements for oxygenate blenders who blend oxygenate in trucks.* Any oxygenate blender who obtains any RBOB in any gasoline delivery truck shall on each occasion it obtains RBOB from a distributor, supply the distributor with the oxygenate blender's EPA registration number.

■ 9. Section 80.73 is amended by revising the introductory text to read as follows:

§ 80.73 Inability to produce conforming gasoline in extraordinary circumstances.

In appropriate extreme and unusual circumstances (*e.g.*, natural disaster or Act of God) which are clearly outside the control of the refiner, importer, or oxygenate blender and which could not have been avoided by the exercise of prudence, diligence, and due care, EPA may permit a refiner, importer, or oxygenate blender, for a brief period, to distribute gasoline which does not meet the requirements for reformulated gasoline, or does not contain the type(s) and amount(s) of oxygenate required under § 80.69(b)(1), if:

* * * * *

■ 10. Section 80.74 is amended by revising paragraph (c) introductory text, (c)(2), and (d) introductory text to read as follows:

§ 80.74 Recordkeeping requirements.

* * * * *

(c) *Refiners and importers of averaged gasoline.* In addition to other requirements of this section, any refiner or importer who produces or imports any reformulated gasoline for which compliance with one or more applicable standard is determined on an average shall maintain records containing the following information:

* * * * *

(2) For any credits bought, sold, traded or transferred pursuant to § 80.67(h), the dates of the transactions, the names and EPA registration numbers of the parties involved, and the number of credits transferred.

(d) *Oxygenate blenders.* Any oxygenate blender who blends any oxygenate with any RBOB shall, for each occasion such blending occurs, maintain records containing the following:

* * * * *

■ 11. Section 80.75 is amended as follows:

■ a. By revising the introductory text;

■ b. By revising paragraph (a) introductory text and removing and reserving paragraph (a)(2);

■ c. By removing and reserving paragraph (f); and

■ d. By revising paragraphs (h), (i), (l), (m), and (n)(2).

The revisions read as follows:

§ 80.75 Reporting requirements.

Any refiner or importer shall report as specified in this section, and shall report such other information as the Administrator may require.

(a) *Quarterly reports for reformulated gasoline.* Any refiner or importer that produces or imports any reformulated gasoline or RBOB shall submit quarterly reports to the Administrator for each refinery at which such reformulated gasoline or RBOB was produced and for all such reformulated gasoline or RBOB imported by each importer.

* * * * *

(2) * * *

(vii) [Reserved]

* * * * *

(f) [Reserved]

* * * * *

(h) *Credit transfer reports.* As an additional part of the fourth quarterly report required by this section, any refiner or importer shall, for each refinery or importer, supply the following information for any benzene credits that are transferred from or to another refinery or importer:

(1) The names, EPA-assigned registration numbers and facility identification numbers of the transferor and transferee of the credits;

(2) The number(s) of credits that were transferred; and

(3) The date(s) of the transaction(s).

(i) *Covered areas of gasoline use report.* Any refiner that produced any reformulated gasoline that was to meet any reformulated gasoline standard on average (''averaged reformulated gasoline'') shall, for each refinery at which such averaged reformulated gasoline was produced submit to the Administrator, with the fourth quarterly report, a report that contains the identity of each covered area that was supplied with any averaged reformulated gasoline produced at each refinery during the previous year.

* * * * *

(l) *Reports for per-gallon compliance gasoline.* In the case of reformulated gasoline or RBOB for which compliance with each of the standards set forth in § 80.41 is achieved on a per-gallon basis, the refiner or importer shall submit to the Administrator, by the last day of February of each year beginning in 1996, a report of the volume of each designated reformulated gasoline or RBOB produced or imported during the previous calendar year for which compliance is achieved on a per-gallon basis, and a statement that each gallon of this reformulated gasoline or RBOB met the applicable standards.

(m) *Reports of compliance audits.* Any refiner or importer shall cause to be submitted to the Administrator, by May 31 of each year, the report of the compliance audit required by § 80.65(h).

(n) * * *

(2) Signed and certified as correct by the owner or a responsible corporate officer of the refiner or importer.

* * * * *

■ 12. Section 80.76 is amended by revising paragraph (a) to read as follows:

§ 80.76 Registration of refiners, importers or oxygenate blenders.

(a) Registration with the Administrator of EPA is required for any refiner and importer that produces or imports any reformulated gasoline or RBOB, and any oxygenate blender that blends oxygenate into RBOB.

* * * * *

■ 13. Section 80.77 is amended by removing and reserving paragraph (g)(2)(ii) and revising paragraph (i)(2) to read as follows:

§ 80.77 Product transfer documentation.

* * * * *

(g) * * *

(2) * * *

(ii) [Reserved]

* * * * *

(i) * * *

(2) The oxygenate type(s) and amount(s) that are intended for blending with the RBOB;

* * * * *

■ 14. Section 80.78 is amended by removing and reserving paragraph (a)(1)(ii) and revising paragraph (a)(11)(iv) to read as follows:

§ 80.78 Controls and prohibitions on reformulated gasoline.

* * * * *

(a) * * *

(1) * * *

(ii) [Reserved]

* * * * *

(11) * * *

(iv) When transitioning from RBOB to reformulated gasoline, the reformulated gasoline must meet all applicable standards that apply at the terminal subsequent to any oxygenate blending;

* * * * *

■ 15. Section 80.79 is amended by revising paragraph (c)(1) to read as follows:

§ 80.79 Liability for violations of the prohibited activities.

* * * * *

(c) * * *

(1) Of a periodic sampling and testing program to determine if the applicable maximum and/or minimum standards for benzene, RVP, or VOC emission performance are met.

* * * * *

■ 16. Section 80.81 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 80.81 Enforcement exemptions for California gasoline.

* * * * *

(b)(1) Any refiner or importer of gasoline that is sold, intended for sale, or made available for sale as a motor fuel in the State of California is, with regard to such gasoline, exempt from the compliance survey provisions contained in § 80.68.

(2) Any refiner or importer of California gasoline is, with regard to such gasoline, exempt from the independent analysis requirements contained in § 80.65(f).

* * * * *

Subpart F—[Amended]

■ 17. Section 80.125 is amended by revising paragraphs (a), (c) and (d) introductory text, to read as follows:

§ 80.125 Attest engagements.

(a) Any refiner and importer subject to the requirements of this subpart F shall engage an independent certified public accountant, or firm of such accountants (hereinafter referred to in this subpart F as ''CPA''), to perform an agreed-upon procedures attestation engagement of the underlying documentation that forms the basis of the reports required by §§ 80.75 and 80.105.

* * * * *

(c) The CPA may complete the requirements of this subpart F with the assistance of internal auditors who are employees or agents of the refiner or importer, so long as such assistance is in accordance with the Statements on Standards for Attestation Engagements.

(d) Notwithstanding the requirements of paragraph (a) of this section, any refiner or importer may satisfy the requirements of this subpart F if the requirements of this subpart F are completed by an auditor who is an employee of the refiner or importer, provided that such employee:

* * * * *

■ 18. Section 80.126 is amended by revising paragraph (b) to read as follows:

§ 80.126 Definitions.

* * * * *

(b) *Credit Trading Records.* Credit trading records shall include worksheets and EPA reports showing actual and complying totals for benzene; credit calculation worksheets; contracts; letter

agreements; and invoices and other documentation evidencing the transfer of credits.

* * * * *

■ 19. Section 80.128 is amended by revising paragraph (e)(2) to read as follows:

§ 80.128 Alternative agreed upon procedures for refiners and importers.

* * * * *

(e) * * *

(2) Determine that the requisite contract was in place with the downstream blender designating the required blending procedures;

* * * * *

§ 80.129 [Removed]

■ 20. Section 80.129 is removed and reserved.

■ 21. Section 80.130 is amended by revising paragraph (a) to read as follows:

§ 80.130 Agreed upon procedures reports.

(a) *Reports.* (1) The CPA or CIA shall issue to the refiner or importer a report summarizing the procedures performed in the findings in accordance with the attest engagement or internal audit performed in compliance with this subpart.

(2) The refiner or importer shall provide a copy of the auditor's report to the EPA within the time specified in § 80.75(m).

* * * * *

■ 22. Section 80.133 is amended by revising paragraphs (h)(1) and (h)(4) to read as follows:

§ 80.133 Agreed upon procedures for refiners and importers.

* * * * *

(h) * * *

(1) Obtain from the refiner or importer the oxygenate type and volume, and oxygen volume required to be hand blended with the RBOB, in accordance with § 80.69(a)(2).

* * * * *

(4) Perform the following procedures for each batch report included in paragraph (h)(4)(i)(B) of this section:

(i) Obtain and inspect a copy of the executed contract with the downstream oxygenate blender (or with an intermediate owner), and confirm that the contract:

(A) Was in effect at the time of the corresponding RBOB transfer; and

(B) Allowed the company to sample and test the reformulated gasoline made by the blender.

(ii) Obtain a listing of RBOB blended by downstream oxygenate blenders and the refinery's or importer's oversight test results, and select a representative sample, in accordance with the guidelines in § 80.127, from the listing of test results and for each test selected perform the following:

(A) Obtain the laboratory analysis for the batch, and agree the type of oxygenate used and the oxygenate content appearing in the laboratory analysis to the instructions stated on the product transfer documents corresponding to a RBOB receipt immediately preceding the laboratory analysis and used in producing the reformulated gasoline batch selected within the acceptable ranges set forth at § 80.65(e)(2)(i);

(B) Calculate the frequency of sampling and testing or the volume blended between the test selected and the next test; and

(C) Agree the frequency of sampling and testing or the volume blended between the test selected and the next test to the sampling and testing frequency rates stated in § 80.69(a)(7).

* * * * *

§ 80.134 [Removed]

■ 23. Section 80.134 is removed.

[FR Doc. 06–4252 Filed 5–5–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–6155–31; I.D. 042606G]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,615 to 1,881 nm^2 (5,539 to 6,452 km^2), east of Boston, MA, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours May 10, 2006, through 2400 hours May 24, 2006.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP Web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2)

allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On April 22, 2006, an aerial survey reported a sighting of eleven right whales in the proximity 42° 23′ N. lat. and 70° 22′ W. long. This position lies east of Boston, MA. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

Until May 15, the DAM Zone is bound by the following coordinates:

42° 44′ N., 70° 47 W. (NW Corner)
42° 44′ N., 69° 52 W.
41° 55′ N., 69° 52 W.
41° 55′ N., 69° 58 W. and follow the coastline northwest to
42° 05′ N., 70° 10 W.
42° 12′ N., 70° 15 W.
42° 12′ N., 70° 30 W.
41° 55′ N., 70° 30 W.
41° 55′ N., 70° 33 W. and follow the coastline northwest to
42° 16′ N., 70° 50 W.
42° 33′ N., 70° 50 W. and follow the coastline northeast then northwest to
42° 44′ N., 70° 47 W. (NW Corner)

After May 15, the Cape Cod Bay Restricted Area expires and the DAM zone is bound by the following coordinates:

42° 44′ N., 70° 47′ W. (NW Corner)
42° 44′ N., 69° 52′ W.
41° 55′ N., 69° 52′ W.
41° 55′ N., 69° 58′ W. and follow the coastline northwest then southeast to
41° 55′ N., 70° 05′ W.
41° 55′ N., 70° 33′ W. and follow the coastline northwest to
42° 16′ N., 70° 50′ W.
42° 33′ N., 70° 50′ W. and follow the coastline northeast then northwest to
42° 44′ N., 70° 47′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fishermen: a portion of this DAM zone overlaps the Gulf of Maine Closure Area 3 found at 50 CFR 648.81(f), Georges Bank Seasonal Closure Area found at 50 CFR 648.81(g), and Northeast multispecies Western Gulf of Maine Closure Area found at 50 CFR 648.81(I). Due to these closures, sink gillnet gear is prohibited from these portions of the DAM zone during these time periods.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters, Cape Cod Bay Restricted Area (after May 15), and the Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Gillnet Waters, Cape Cod Bay Restricted Area (after May 15), and the Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining

two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours May 10, 2006, through 2400 hours May 24, 2006, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA Web site, and other appropriate media immediately upon issuance of this final rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as the AA signs it, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: May 2, 2006.

James W. Balsiger,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 06–4283 Filed 5–3–06; 2:28 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 041110317–4364–02; I.D. 042706A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring 5,871 lb (2,663 kg) of commercial summer flounder quota to the Commonwealth of Virginia from its 2006 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective May 3, 2006 through December 31, 2006, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281–9341, FAX (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual

specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the FMP that was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 5,871 lb (2,663 kg) of its 2006 commercial quota to Virginia to cover landings of two North Carolina vessels granted safe harbor in Virginia following mechanical problems. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised quotas for calendar year 2006 are: North Carolina, 3,820,228 lb (1,732,826 kg); and Virginia, 2,977,543 lb (1,350,591 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 2, 2006.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–4282 Filed 5–3–06; 2:28 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 88
Monday, May 8, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 5

[Docket No. DHS–2006–0018]

Privacy Act of 1974: Implementation of Exemptions

AGENCY: Privacy Office, Office of the Secretary, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security has given notice of a new Department-wide system of records pursuant to the Privacy Act of 1974 for Department of Homeland Security General Training Records. In this proposed rulemaking, the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act in order to preserve the objectivity and fairness of testing and examination material.

DATES: Comments must be received on or before June 7, 2006.

ADDRESSES: You may submit comments, identified by docket number DHS–2006–0018, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Fax: 571–227–4171.

Mail: Acting Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202–4220.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, 601 South 12th Street, Arlington, VA 22202–4220 by telephone (571) 227–3813 or facsimile (571) 227–4171.

SUPPLEMENTARY INFORMATION:

Background

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system, in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

Elsewhere in the **Federal Register**, the Department of Homeland Security has published a new system of records to cover all of its general training records. This record system will allow all component parts of DHS to maintain training records under one centralized system. The system will consist of both electronic and paper records and will be used by DHS and its components and offices to maintain records about individual training, including enrollment and participation information, information pertaining to class schedules, programs, and instructors, training trends and needs, tests and examination materials, and assessments of training efficacy. The data will be collected by employee name or other unique identifier. The collection and maintenance of this information will assist DHS in meeting its obligation to train its personnel, contractors and other individuals in order to ensure that the agency mission can be successfully accomplished.

The Privacy Act allows government agencies to exempt certain records from its access and amendment and certain other provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming an exemption for certain records in this new record system pursuant to 5 U.S.C. 552a(k)(6). Since its training records will include testing and examination materials, DHS is claiming an exemption for these records in order to preserve the objectivity and fairness of the testing and examination process.

List of Subjects in 6 CFR Part 5

Privacy; Freedom of information.

For the reasons stated in the preamble, DHS proposes to amend chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. At the end of appendix C to part 5, Exemption of Record Systems Under the Privacy Act, add the following new paragraph ''5'':

* * * * *

5. The Department of Homeland Security General Training Records system of records consists of electronic and paper records and will be used by DHS and its components and offices to maintain records about individual training, including enrollment and participation information, information pertaining to class schedules, programs, and instructors, training trends and needs, testing and examination materials, and assessments of training efficacy. The data will be collected by employee name or other unique identifier. The collection and maintenance of this information will assist DHS in meeting its obligation to train its personnel and contractors in order to ensure that the agency mission can be successfully accomplished.

Pursuant to exemptions 5 U.S.C. 552a(k)(6) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(d) to the extent that records in this system relate to testing or examination materials used solely to determine individual qualifications for appointment in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing and examination process.

Dated: April 28, 2006.

Maureen Cooney,

Acting Chief Privacy Officer.

[FR Doc. E6–6810 Filed 5–4–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Model SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Cirrus Design Corporation (CDC) Model SR20 and SR22 airplanes. This proposed AD would require you to check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection. If the O-rings were not replaced, this proposed AD would require you to replace the O-ring seals with new seals or replace brake calipers. This proposed AD would also require you to modify the main landing gear wheel fairings to add temperature indicator sticker inspection holes, trim the wheel fairings to prevent them from holding fluids, install temperature indicator stickers on the brake calipers, and insert Revision A6 (with revised preflight walk-around and taxi procedures) into the Pilot's Operating Handbook (POH). This proposed AD results from several reports of airplanes experiencing brake fires and two airplanes losing directional control. We are issuing this proposed AD to detect, correct, and prevent overheating damage to the brake caliper piston O-ring seals, which could result in leakage of brake hydraulic fluid. Consequently, this could lead to the loss of braking with loss of airplane directional control or brake fire.

DATES: We must receive comments on this proposed AD by July 10, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001. Fax: (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737 or on the Internet at *http://www.cirrusdesign.com.*

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Wess Rouse, Aerospace Engineer, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, ''FAA–2006–24010; Directorate Identifier 2006–CE–14–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of the DOT docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.).

Discussion

The FAA recently received four reports of CDC Models SR20 and SR22 airplanes experiencing brake fires and one airplane losing directional control resulting in contact with a parked airplane. There was one prior report of loss of directional control in 2002.

Investigation has shown that with a free castering nose wheel, occasional right braking during taxi is necessary due to helical propwash. Excessive brake use during taxi can result in overheating damage of the O-ring seals on the right brake caliper piston. Consequently, the overheating damage of the O-ring seals on the brake caliper piston results in leakage of brake hydraulic fluid.

In addition to excessive use of the right brake, data suggests that brake caliper piston O-ring seals have not typically been replaced at annual or 100-hour inspections as specified in the Aircraft Maintenance Manual (AMM).

To address this unsafe condition, CDC has developed the following:

- Modifications to the main landing gear (MLG) wheel fairings to add temperature indicator sticker inspection holes and trim the wheel fairings to ensure that any leaking hydraulic fluid runs onto the pavement where it may be seen rather than collecting in the wheel pants;
- Temperature indicator stickers to install on brake calipers; and
- Revision A6 for the POH (with revised preflight walk-around and taxi procedures).

This condition, if not corrected, could cause leakage of brake hydraulic fluid and lead to the loss of braking with loss of airplane directional control or brake fire.

Relevant Service Information

We have reviewed CDC Service Bulletins SB 2X–32–13, Issued: December 15, 2005; and SB 2X–32–14 R1, Issued: January 18, 2006, Revised: February 17, 2006.

The service information describes procedures for:

- A wheel conversion and brake upgrade; and
- Modifications of the MLG fairings to include inspection holes that facilitate monitoring (temperature indicator stickers) for brake assembly temperature and trimming of the MLG fairings to provide for additional clearance;
- Installation of temperature indicator stickers on the brake assemblies; and
- Incorporation of Revision A6 into the POH.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD to address an unsafe condition that we determined is likely to exist or develop on other products of this same type design. The proposed AD would require you to:

- Check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection, and,

if not replaced, replace the O-ring seals with new seals or replace brake calipers;

- Modify the MLG wheel fairings to add a temperature indicator sticker inspection hole;
- Trim the wheel fairings to prevent them from holding fluids;
- Install temperature indicator stickers on the brake calipers; and
- Insert Revision A6 into the POH.

The proposed AD would require you to use the service information described previously to perform these actions.

Differences Between the Proposed AD and Service Information

The proposed AD would require you to check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection, and, if not replaced, would require you to replace the O-ring seals with new seals or replace brake calipers. This step is not included in the service bulletin. We include it in the proposed AD to assure the O-ring seals are replaced or have been recently replaced. Replacement procedures for the brake caliper piston O-ring seals are in Section 32–42 of the CDC Model SR20 or SR22 AMM. The requirements of the proposed AD, if adopted as a final rule, would take precedence over the provisions in the service information.

Costs of Compliance

We estimate that this proposed AD affects 2,135 airplanes in the U.S. registry.

We estimate the following costs to do this proposed check of maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $80 = $80	Not applicable	$80	2,135 × $80 = $170,800.

We estimate the following costs to install any necessary O-ring seals that would be required based on the results of this proposed check of maintenance records. We have no way of determining the number of airplanes that may need this seal installation:

Labor cost	Parts cost	Total cost per airplane
4 work hours × $80 = $320	$8	$328

We estimate the following costs to replace any brake calipers on Model SR20 airplanes, serial numbers (S/Ns) 1005 through 1194, that would be required based on the results of this proposed check of maintenance records. We have no way of determining the number of these Model SR20 airplanes that may need to replace brake calipers:

Labor cost	Parts cost	Total cost per airplane
12 workhours × $80 = $960	$1,167	$2,127

We estimate the following costs to replace any brake calipers on Model SR20 airplanes, S/Ns 1195 through 1600, that would be required based on the results of this proposed check of maintenance records. We have no way of determining the number of these Model SR20 airplanes that may need to replace brake calipers:

Labor cost	Parts cost	Total cost per airplane
8 workhours × $80 = $640	$1,167	$1,807

We estimate the following costs to replace any brake calipers on Model SR22 airplanes that would be required based on the results of this proposed check of maintenance records. We have no way of determining the number of Model SR22 airplanes that may need to replace brake calipers:

Labor cost	Parts cost	Total cost per airplane
5 workhours × $80 = $400	$845	$1,245

We estimate the following costs to do the proposed modification of the MLG wheel fairings to add the temperature indicator sticker inspection holes, trim the wheel fairings to prevent them from holding fluids, and install the temperature indicator sticker on the brake calipers:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $80 = $160	$2	$162	2,135 × $162 = $345,870.

The CDC has indicated that CDC will provide warranty credit as stated in the service information for modifying the MLG wheel fairings by adding the temperature indicator sticker inspection holes, trimming the wheel fairings to prevent them from holding fluids, and installing the temperature indicator sticker on the brake calipers.

We estimate the following costs to do the proposed insertion of Revision A6 into the POH:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $80	Not applicable	$80	$170,800

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

Examining the Dockets

You may examine the docket that contains the proposal, any comments received and any final disposition on the Internet at *http://dms.dot.gov,* or in person at the DOT Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Cirrus Design Corporation: Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by July 10, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplane models and serial numbers (S/N) that are certificated in any category:

(1) *Group 1:* Model SR20 Airplanes, S/N 1005 through 1600.

(2) *Group 2:* Model SR22 Airplanes, S/N 0002 through 1739.

(3) *Group 3:* Model SR20 Airplanes, S/N 1005 through 1592.

(4) *Group 4:* Model SR22 Airplanes, S/N 0002 through 1727.

Unsafe Condition

(d) This AD results from several reports of airplanes that experienced brake fires and two airplanes that lost directional control. The actions specified in this AD are intended to detect, correct, and prevent overheating damage to the brake caliper piston O-ring seals, which could result in leakage of brake hydraulic fluid. Consequently, this could lead to the loss of braking with loss of airplane directional control or brake fire.

Compliance

(e) To address this problem, you must do the following:

TABLE 1.—ACTIONS/COMPLIANCE/PROCEDURES

Actions	Compliance	Procedures
(1) *For Group 1 and Group 2 Airplanes:* Check the maintenance records to determine whether the brake caliper piston O-ring seals were replaced at the last annual or 100-hour inspection.	Within 50 hours time-in-service (TIS) after the effective date of this AD, unless already done.	No special procedures necessary to check the maintenance records. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may make this check. You must make an entry into the airplane records that shows compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) *For Group 1 and Group 2 Airplanes:* If you find as a result of the check required by paragraph (e)(1) of this AD that there is no record of the replacement of brake caliper piston O-ring seals at the last annual or 100-hour inspection, then do the following: (i) Replace the O-ring seals with new O-ring seals; or (ii) Replace old brake calipers with new brake calipers.	Before further flight after the check required by paragraph (e)(1) of this AD.	For the replacement, brake maintenance procedures are included in Section 32–42 of the SR20 or SR22 Aircraft Maintenance Manual. For the replacement of old brake calipers with new brake calipers, follow Cirrus Design Corporation Service Bulletin SB 2X–32–13, Issued: December 15, 2005.
(3) *For Group 3 and Group 4 Airplanes:* (i) Modify the main landing gear (MLG) wheel fairings to add temperature indicator sticker inspection holes and trim the wheel fairings to prevent them from holding fluids; and (ii) Install a temperature indicator sticker on the brake calipers.	Do the modification within 50 hours TIS after the effective date of this AD, unless already done. Do the temperature indicator sticker installation within 50 hours TIS after the effective date of this AD, unless already done, and thereafter before further flight anytime you have the o-ring seals replaced due to overheating of the brake assembly (temperature indicator sticker turned black).	Follow Cirrus Design Corporation Service Bulletin SB 2X–32–14 R1, Issued: January 18, 2006, Revised: February 17, 2006.
(4) *For all airplanes:* Insert the appropriate Revision A6 part number (P/N) into the Pilot's Operating Handbook (POH), as presented in TABLE 2.—REVISION A6 TO THE PILOT'S OPERATING HANDBOOK, in paragraph (f) of this AD..	Within 50 hours TIS after the effective date of this AD, unless already done.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the POH as specified in paragraph (e)(4) of this AD. Make an entry into the airplane maintenance records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(5) *For Group 3 and Group 4 Airplanes:* (i) Do not install any MLG fairings without also doing the modifications required by paragraph (e)(3)(i) of this AD; and (ii) Do not replace any brake calipers without also installing the temperature indicator sticker required by paragraph (e)(3)(ii) of this AD.	As of the effective date of this AD	Follow Cirrus Design Corporation Service Bulletin SB 2X–32–14 R1, Issued: January 18, 2006, Revised: February 17, 2006.

(f) The following table specifies the POH Revision A6 part number as required in paragraph (e)(4) of this AD:

TABLE 2.—REVISION A6 TO THE PILOT'S OPERATING HANDBOOK

Affected airplanes	Model SR20 or SR22 airplane POH P/N	Date FAA-approved
(1) Model SR20, S/N 1148 through 1267	11934–002	January 18, 2006.
(2) Model SR20, S/N 1005 through 1147 that have the 3,000-pound gross weight modification following Cirrus Design Corporation Service Bulletin SB 20–01–00, Issued: February 25, 2003.	11934–002	January 18, 2006.
(3) SR20, S/N 1268 through 1739	11934–003	January 18, 2006.
(4) SR22, S/N 002 through 1739	13772–001	January 18, 2006.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Chicago Aircraft Certification Office (ACO), ATTN: Wess Rouse, Aerospace Engineer, FAA, ACE–117C, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834, has the authority to approve alternative methods of compliance for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(h) To get copies of the documents referenced in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737, or on the Internet at *http://www.cirrusdesign.com*. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov*. The docket number is Docket No. FAA–2006–24010; Directorate Identifier 2006–CE–14–AD.

Issued in Kansas City, Missouri, on May 1, 2006.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–6905 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2003–15149]

RIN 2125–AE98

National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Maintaining Traffic Sign Retroreflectivity

AGENCY: Federal Highway Administration (FHWA), (DOT).

ACTION: Supplemental notice of proposed amendments (SNPA); request for comments.

SUMMARY: In an earlier notice of proposed amendments (NPA), the FHWA proposed to amend the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) to include methods to maintain traffic sign retroreflectivity. Based on the review and analysis of the numerous comments received in response to the NPA, the FHWA has decided to substantially revise the proposed amendments to the MUTCD and, as a result, is issuing this SNPA. With this SNPA, the FHWA proposes to amend the MUTCD to include a standard for minimum maintained levels of traffic sign retroreflectivity and methods to maintain traffic sign retroreflectivity at or above these levels.

DATES: Comments must be received on or before November 6, 2006.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dms.dot.gov* or fax comments to (202) 493–2251. Alternatively, comments may be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Persons making comments may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78) or may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Debra Chappell, Office of Safety Design (202) 366–0087, or Raymond Cuprill, Office of the Chief Counsel (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

Interested parties may submit or retrieve comments online through the Document Management System (DMS) at *http://dms.dot.gov.* The DMS is available 24 hours each day, 365 days each year. Electronic submission, retrieval help, and guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded using the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web page at *http://www.access.gpo.gov/nara.*

Background

On July 30, 2004, at 69 FR 45623, the FHWA published in the **Federal Register** an NPA to amend the MUTCD to include methods to maintain traffic sign retroreflectivity.[1] [2] This NPA was in response to a Congressional directive in the Department of Transportation and Related Agencies Appropriations Act, 1993 (Pub. L. 102–388; October 6, 1992). Section 406 of this Act directed the Secretary of Transportation to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained for traffic signs and pavement markings, which apply to all roads open to public travel. The FHWA is currently conducting research to develop a standard for minimum levels of pavement marking retroreflectivity. However, a NPA regarding minimum pavement marking retroreflectivity is not expected to be issued until the rulemaking for minimum traffic sign retroreflectivity is finalized.

The comment period for the NPA initially expired on October 28, 2004, but was extended to February 1, 2005 (69 FR 62007). As of June 1, 2005, the FHWA received 85 letters submitted to the docket containing 350 individual comments on the NPA. The FHWA received comments from the National Committee on Uniform Traffic Control Devices (NCUTCD), the American Association of State Highway and Transportation Officials (AASHTO), State Departments of Transportation (State DOTs), city and county governmental agencies, consulting firms, private industry, associations, other organizations, and individual private citizens. The FHWA has reviewed and analyzed the comments that were received as of June 1, 2005. Docket comments and summaries of the FHWA's analyses and determinations are discussed below. After considering and analyzing the comments, the FHWA has decided to issue this SNPA. The proposed changes would be designated as Revision No. 2 to the 2003 Edition of the MUTCD.[3]

The MUTCD is incorporated by reference in 23 CFR 655.601. It is available for inspection and copying as prescribed in 49 CFR part 7 and on the FHWA's Web site at *http://mutcd.fhwa.dot.gov.* Requirements for nighttime sign visibility have been included in every version of the

[1] The NPA published on July 30, 2004, at 69 FR 45623, describes the research and development and other efforts by the FHWA to implement this requirement. More information is available at the following Web address: *http://www.fhwa.dot.gov/retro.*

[2] The definition and measurement of retroreflectivity are described in the International Commission on Illumination's report, ''Retroreflection: Definition and Measurement'' CIE Publication 54.2–2001, CIE Central Bureau, Vienna, Austria. The document is available at the following Web address: *http://www.cie.co.at/framepublications.html.*

[3] The proposed changes to the MUTCD are available for review at the following Web address: *http://tcd.tamu.edu/Documents/MinRetro/2005–08–02_PROPOSED_Rev2.pdf.*

MUTCD since the first edition in 1935. The 2003 Edition of the MUTCD continues to address the visibility of signs. Two pertinent MUTCD sections include: Section 2A.08 Retroreflectivity and Illumination, which states, ''[r]egulatory, warning, and guide signs shall be retroreflective or illuminated to show the same shape and similar color by both day and night, unless specifically stated otherwise in the text discussion in this Manual of a particular sign or group of signs'' and Section 2A.22 Maintenance, which states, ''All traffic signs should be kept properly positioned, clean, and legible, and should have adequate retroreflectivity.'' Section 2A.22 also recommends that nighttime inspections be scheduled to assure adequate sign maintenance. This SNPA proposes MUTCD revisions that address minimum sign retroreflectivity levels and methods to maintain sign retroreflectivity. The proposed MUTCD revisions would be mostly included in Section 2A.09 Minimum Retroreflectivity Levels, which was a new section added in the MUTCD Millennium Edition. Section 2A.09 currently serves as a placeholder for the results of this SNPA.

While many of the respondents agreed with the intent and the concepts proposed in the NPA, there were other respondents that provided comments related to the following five major issues:

(1) The NPA proposal did not meet the intent of the 1993 Congressional directive to include a standard for the minimum levels of retroreflectivity for traffic signs in the MUTCD;

(2) The table outlining the minimum retroreflectivity levels should be placed in the MUTCD;

(3) Further clarification of the compliance period should be provided;

(4) The visibility impacts associated with maintained sign retroreflectivity should be described; and

(5) The requirements in the proposal would impose additional time and resource burdens on public agencies.

The FHWA has decided to address the issues raised by the respondents by issuing this SNPA. The purpose of this SNPA is to obtain public comment on revised proposed amendments to the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained for traffic signs and methods to maintain traffic sign retroreflectivity at or above these levels. The FHWA proposes the following key changes:

(1) Add a STANDARD statement to Section 2A.09 that reads, ''Public agencies or officials having jurisdiction shall use an assessment or management method to maintain traffic sign retroreflectivity at or above the minimum levels established in the Guidance below.'' This STANDARD statement requires that a method be used to manage and maintain retroreflectivity and also requires that sign retroreflectivity be maintained to minimum levels. This is a revised version of the GUIDANCE statement that was proposed in the NPA.

(2) Include the table of minimum retroreflectivity levels in the MUTCD. In the NPA, the table of retroreflectivity levels was not included in the MUTCD, but was instead contained in a document that was referenced in the MUTCD.

These proposed changes are significant enough to warrant a SNPA, which will also allow the FHWA to obtain and assess additional public comments, including comments from States and local governments, before a final rule is issued.

Discussion of Major Issues

This section provides a discussion of each of the five major issues for which comments were received in response to the NPA, along with the FHWA's proposed resolution. The next section discusses additional comments that were received in response to the NPA that were not related to the five major issues.

(1) *The NPA proposal did not meet the intent of the 1993 Congressional directive to include a standard for the minimum levels of retroreflectivity for traffic signs in the MUTCD.*

The FHWA received comments from the National Association of County Engineers (NACE), New Jersey DOT, Saline County (Kansas), and the City of Plano (Texas) supporting the proposed text in the NPA that proposed to include the minimum retroreflectivity levels in a GUIDANCE statement, rather than a STANDARD statement.[4] The Connecticut DOT opposed the proposed GUIDANCE, stating that by proposing to reference the minimum retroreflectivity levels and including compliance dates, the FHWA went beyond GUIDANCE.

The American Automobile Association (AAA), the American Traffic Safety Services Association (ATSSA), the Advocates for Highway and Auto Safety (AHAS), the American Highway Users Alliance (AHUA), the American Association of Retired Persons (AARP), a representative of the sign industry, a consultant, and a private citizen all opposed the inclusion of minimum retroreflectivity as a GUIDANCE, and instead proposed that it should be a STANDARD. These comments stated that the Congressional intent was that the MUTCD should include a STANDARD, and that the importance of road safety is such that minimum levels of sign retroreflectivity should be emphasized by creating a STANDARD.

The County Engineers Association of Illinois—District 3 submitted three comments in general opposition to the proposed changes. In particular, it felt that the proposed changes represented overregulation and could be written as simple guidelines that would not expose agencies to additional tort liability. McLean County (Illinois) also opposed the proposed changes because it takes pride in its work and states that a faded sign has never been blamed for a crash in McLean County.

Considering these comments in conjunction with the FHWA's strong support for safety and the MUTCD's opening sentence regarding the use of traffic control devices to promote highway safety, the FHWA decided to propose a STANDARD statement that requires public agencies and officials with jurisdiction to implement a method to maintain traffic sign retroreflectivity at or above the minimum levels included in the MUTCD. This proposed STANDARD is intended to clearly satisfy the Congressional directive of the 1993 Appropriations Act as well as contribute to the improved safety of the motoring public. The FHWA acknowledges that many agencies and public officials might have concerns regarding this proposed STANDARD, particularly because of a perceived potential increase in tort litigation. However, the FHWA's primary concern is safety, and the FHWA believes this proposed change will promote safety on our nation's streets and highways. At the same time, the FHWA believes that the proposed changes to the MUTCD provide sufficient flexibility for the agencies or officials to choose a reasonable method to maintain and assess sign retroreflectivity that fits the particular circumstances in their jurisdictions. In fact, the selection of a reasonable method for maintaining sign retroreflectivity and strict adherence to the same might have the opposite effect concerning tort liability and litigation. Public agencies and officials that

[4] In the context of this SNPA, the definitions of STANDARD and GUIDANCE are identical to the definitions provided in the Introduction of the MUTCD (*http://mutcd.fhwa.dot.gov*). Specifically, a STANDARD is a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device while a GUIDANCE is a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate.

implement and follow a reasonable method in conformance with the national MUTCD would appear to be in a better position to successfully defend tort litigation involving improper sign retroreflectivity than jurisdictions that lack any method.

The proposed changes include five methods that agencies can use to maintain traffic sign retroreflectivity at or above the minimum levels. In addition, agencies are not limited to these five proposed methods, as they can also develop their own methods using documented engineering judgment or studies that demonstrate that deviations are appropriate.[5] The FHWA's intent is that by using one of these proposed methods to assess and maintain traffic sign retroreflectivity, agencies would be in conformance with the national MUTCD requirement to maintain the minimum levels of traffic sign retroreflectivity.

The purpose of providing the five methods and allowing additional methods is to provide flexibility for agencies in terms of complying with the MUTCD. In other words, conformance with the proposed changes in this SNPA would be achieved by having a method in place to maintain the minimum retroreflectivity levels, rather than by providing the minimum retroreflectivity level for every individual sign at every point in time. For example, if an agency chooses to implement the visual nighttime inspection method, there is no guarantee that the retroreflectivity of all of the agency's signs listed in the table of minimum retroreflectivity levels will be satisfied during the entire period that the signs are in the field. Assuming that an agency successfully completes the annual visual nighttime inspections and that signs failing the subjective evaluation or signs rated as marginal are scheduled for replacement or reassessment within a reasonable time period, then there is clearly a period when these signs might be below the levels in the table of minimum retroreflectivity levels while the sign is awaiting replacement or reassessment. Having a method in place to maintain the minimum retroreflectivity levels is a valuable way for agencies to prioritize how to spend limited resources on those signs that should be replaced sooner, thus ultimately contributing to improved safety for the motoring public.

There are other conditions where signs might be rated as being satisfactory while temporarily falling below the minimum retroreflectivity levels.[6] For example, dew and frost on signs have been shown to significantly reduce retroreflectivity. In addition, while research has shown that the visual nighttime inspection is a reasonable method in terms of identifying signs that need to be replaced because of inadequate retroreflectivity, the nighttime visual inspection method is not 100 percent reliable.[7] [8] When inventories are not available for use on nighttime visual inspections, it is not unreasonable to miss a small percentage of signs along a densely-signed corridor, especially if a sign was knocked down or missing for some other reason at the time of the inspection. It is also possible that a sign or a group of signs could have adequate retroreflectivity for a predetermined number of years, but because of factors such as sign manufacturing defects or inadvertent mishandling during installation, a certain percentage might fall below the criteria in the proposed table of minimum retroreflectivity sooner than expected.

Having records to document the methods for managing sign retroreflectivity will help the agency achieve conformance with the proposed standard to maintain the minimum levels of retroreflectivity of traffic signs, as well as provide the agency with a more systematic process of replacing signs and a better justification for the allocation of limited resources. For example, it would be reasonable to have documentation showing that nighttime sign inspections were conducted and that signs rated poor or marginal were marked for replacement or further evaluation. It would also be reasonable to have documentation showing the installation date of signs, their expected sign life, and programmed date of replacement. This is particularly important because measurements of traffic sign retroreflectivity might show that certain signs are near or below the thresholds in the table of minimum retroreflectivity levels before they reach their expected life. As long as an agency has a reasonable method in place to manage or assess its signs, and establishes a reasonable schedule for sign replacement as needed, then the agency will be deemed to be in conformance with the standard proposed in this SNPA.

(2) *The table outlining the minimum retroreflectivity levels should be placed in the MUTCD.*

The FHWA received many comments regarding the proposal in the NPA to place the table outlining the minimum maintained retroreflectivity levels in a referenced document (Maintaining Traffic Sign Retroreflectivity), rather than in the language of the MUTCD. On one hand, the FHWA received 30 comments representing the AASHTO, the NACE, 26 State DOTs, and two Counties supporting the proposed reference to the document, ''Maintaining Traffic Sign Retroreflectivity,'' and thereby only referencing the minimum retroreflectivity levels, rather than including them in the MUTCD text. Additionally, the Wisconsin DOT commented that referencing this document in GUIDANCE is too stringent, and requested that this reference be removed from the GUIDANCE. On the other hand, the FHWA received ten comments representing the ATSSA, the AHAS, the AHUA, Vermont Agency of Transportation, a representative of the sign industry, private citizens, and a consultant suggesting that the minimum maintained retroreflectivity levels should be included in the body of the MUTCD text in order to strengthen the proposed amendment as well as to make it easier for jurisdictions to find and adhere to the appropriate levels.

The FHWA has considered these comments and has decided to propose to include the table of minimum retroreflectivity levels in Section 2A.09 of the MUTCD as a new Table 2A–3. The FHWA agrees with these ten comments that a clear indication of the levels should be directly included in the MUTCD language as a convenience to all readers of the MUTCD. Moreover, the relationship between the FHWA's safety mission and the purpose of traffic control devices as described in the MUTCD, as well as the need to clearly satisfy the Congressional directive in the 1993 Appropriations Act, led to the FHWA's decision to propose to include a reference to the table of minimum retroreflectivity levels in a GUIDANCE statement in the MUTCD. The FHWA

[5] The 2003 Edition of the MUTCD defines a guidance statement, which is how the five methods to maintain sign retroreflectivity are proposed in the SNPA, as a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. The terms engineering judgment and engineering study are further defined in the MUTCD, which can be found online at the following URL: *http://mutcd.fhwa.dot.gov*.

[6] Hildebrand, E. Reduction in Traffic Sign Retroreflectivity Caused by Dew and Frost. Proceedings from Transportation Research Board's (TRB) 82nd Annual Meeting, Washington, DC, January 2003.

[7] Lagergran, E.A. Traffic Sign Retroreflectivity Measurements Using Human Observers. Report No. WA–RD–140.1, Washington State Transportation Center, Seattle, WA, 1987.

[8] Hawkins, H.G. and P.J. Carlson. Results of Visual Evaluations of Sign Retroreflectivity Compared with Minimum Retroreflectivity Recommendations. In Transportation Research Record 1754, TRB, National Research Council, Washington, DC, 2001, pp. 11–20.

believes that this proposed change, in addition to the proposed methods listed in the MUTCD, provides sufficient flexibility for agencies or officials to determine methods that can be customized to fit their particular circumstances.

The NACE, Saline County (Kansas), and Pierce County (Washington) suggested that the title of the minimum retroreflectivity table be changed from ''Minimum Maintained Retroreflectivity Levels'' to ''Research Recommendations for Updated Minimum Retroreflectivity Levels.'' The FHWA disagrees because the table was developed based on the results of extensive research and the details describing this research have been provided in the document, ''Maintaining Traffic Sign Retroreflectivity.'' Therefore, the FHWA believes that there is no need to include ''Research Recommendations'' in the title.

(3) *Further clarification of the compliance period should be provided.*

In the NPA, the FHWA proposed to add target compliance dates for Section 2A.09 Minimum Retroreflectivity to the STANDARD statement in the Introduction to the MUTCD. The FHWA proposed a phase-in target compliance period of 7 years for regulatory, warning, and post-mounted guide signs and 10 years for overhead guide signs and street name signs from the effective date of the final rule for Revision No. 2 of the 2003 MUTCD to minimize any impact on State or local governments.

The NACE, Michigan and New Jersey DOTs, Saline County (Kansas), and Pierce County (Washington) all commented that the compliance periods needed to be clarified, since it was unclear as to whether agencies were to have an assessment or management process in place by the end of the compliance period, or if the intent was that the signs themselves be in compliance by the end of the compliance period.

Therefore, in this SNPA, the FHWA proposes new language in the Introduction of the MUTCD that is intended to clarify the meaning of the compliance periods. Public agencies or officials having jurisdiction will have 2 years to identify and begin using a method to maintain sign retroreflectivity at or above the established minimum levels. In addition, the new language in this SNPA makes it clear that the 7- and 10-year compliance dates apply only to signs that have been identified using an assessment or management method as failing to meet the minimum retroreflectivity levels. The 7-year proposed compliance date for regulatory, warning, and ground-mounted guide signs (except for street name signs) was established to allow new signs with ASTM Type I materials [9] just being installed to remain in place for their normal expected life [10] before being removed and replaced with more efficient retroreflective sheeting materials. Similarly, the FHWA proposes the 10-year compliance date for street name signs and overhead guide signs because more durable materials are normally used on these signs.

Because the proposed compliance dates are tied to the normal expected life of retroreflective materials, the FHWA believes that the changes proposed in this SNPA would lead to visibility improvements and safety enhancements without causing undue financial hardships. For those agencies and officials with jurisdiction already using sign maintenance practices that include retroreflectivity considerations, the proposed changes would have a negligible impact. For those agencies that do not already have a sign maintenance practice in place, the analysis described in the section ''Imposing additional time and resource burdens on public agencies'' and another analysis described near the end of this document demonstrate that the economic impacts would cause minimal additional expenses. Furthermore, the FHWA anticipates that the visibility improvements that are expected from these proposed changes would be derived from the physical removal and replacement of signs that have inadequate retroreflectivity rather than from an overall upgrade of all signs regardless of their retroreflective sheeting material condition.

The following example is provided to clarify how the proposed compliance dates are tied to normal expected sign life. Assuming that these proposed changes become final on January 1, 2007, then agencies and officials with jurisdiction will have until January 1, 2009, to establish a sign assessment or management method and have it operational. Thus by January 1, 2009, agencies and officials will be identifying signs that need to be replaced because of assessed or anticipated insufficient retroreflectivity levels. Agencies and officials will then have until January 1, 2014, to bring the identified regulatory, warning, and ground-mounted guide signs, excluding street name signs, into conformance with the proposed table of minimum retroreflectivity levels. If an agency or officials are using Type I material for certain signs such as warning signs, they would have until January 1, 2014, to have those signs removed and replaced with signs with at least Type III material. Similarly, agencies and officials would have until January 1, 2017, to bring the identified street name signs and overhead guide signs into conformance with the proposed table of minimum retroreflectivity levels.

The FHWA received comments from the American Public Works Association (APWA), the American Road and Transportation Builders Association (ARTBA), and a private citizen in support of the compliance periods proposed in the NPA. Seven comments representing the ATSSA, the AARP, two representatives of the sign industry, and two private citizens all opposed the proposed compliance periods. These comments stated that the periods were too long and should be shortened in order to improve the effectiveness of signs and therefore roadway safety more quickly. Several of the comments cited publications about roadway safety and the economic benefits to society of saving lives. The FHWA considered these comments, but believes that shortening the compliance period might place a financial hardship on State DOTs and local governments. In addition, the proposed MUTCD language described herein is intended to enhance safety above the current level. It is expected that safety will be enhanced during the transition periods associated with the compliance dates and these transition periods achieve a reasonable balance between the costs associated with the proposed changes and safety.

Ten comments representing the NACE, Alabama, Arizona, Pennsylvania, Vermont, and Washington State DOTs, as well as McLean County (Illinois), Saline County (Kansas), Pierce County (Washington), and the City of Fort Worth (Texas) all opposed the compliance periods, stating that the compliance periods were too short. Many of these agencies cited economic concerns, while others suggested that the life cycle of the sign sheeting that they use is longer than the 7- and 10-year compliance periods, therefore the compliance period should be tailored more to the specific sign sheeting types used by agencies. Pierce County (Washington) suggested that the compliance period should be 15 years,

[9] ASTM Type designations are defined in ASTM D4956. From this point forward, the ASTM prefix will be omitted from the text, but should be implicitly assumed when a specific Type of material is designated.

[10] Wolshon, B., *et al.* Analysis and Predictive Modeling of Road Sign Retroreflectivity Performance. TRB Visibility Symposium, Iowa City, Iowa, June 2002. This paper can be found at *http://arrow.win.ecn.uiowa.edu/symposium/DraftPapers/VIS2002–17.pdf.*

which was the compliance period for minimum letter size on street name signs for streets and highways having a speed limit greater than 25 mph.

The FHWA disagrees with extending the compliance period because the FHWA believes the proposed target compliance period of 7 years would allow State and local agencies to replace their signs made with Type I materials within a normal replacement period of a commonly accepted 7-year service life. In addition, the proposed 10-year compliance period for street name signs and overhead guide signs would allow an extended period of time because of the longer service life typically associated with those signs. Existing signs installed by those agencies that are already using higher-grade sign sheeting materials would likely meet the minimum retroreflectivity levels in the 7- and 10-year compliance periods, and would not need to be replaced. The proposed compliance periods also exceed the 6-year compliance period requested by the AASHTO Task Force on Retroreflectivity.

(4) *The visibility impacts associated with maintained sign retroreflectivity should be described.*

Respondents such as the County Engineers Association of Illinois—District 3 stated that the concept of improved visibility as described in the proposed NPA was unclear. In addition, the AHAS pointed out that the concept of enhanced nighttime visibility has not been thoroughly verified. The following discussion demonstrates the FHWA's view regarding the impacts of this SNPA in terms of enhanced nighttime sign visibility. Besides establishing minimum retroreflectivity levels for certain sign types, the table of minimum retroreflectivity levels proposed for inclusion in the MUTCD also eliminates the use of certain types of retroreflective sheeting materials depending on the type of sign. For instance, in this SNPA (and in the previous NPA), the FHWA proposes that Type I material would be unacceptable for warning signs and for legends on ground-mounted guide signs, and Type I, II, and III materials would be unacceptable for legends on overhead guide signs. Research has shown that these restrictions are needed to accommodate the needs of older drivers who generally have diminished visibility capabilities when compared to their younger counterparts.[11] [12]

Although the impact of restricting some types of sign material for certain classes of signs cannot be precisely estimated, the enhanced sign performance or improved visibility can be estimated in various ways. For instance, a convenient way to compare the relative performance of warning signs is to compare the retroreflectivity levels of different sheeting materials. The typical retroreflection level for new yellow Type I materials is approximately 65 cd/lx/m^2 and the typical retroreflection level for new yellow Type III beaded materials is approximately 230 cd/lx/m^2. Based on these typical retroreflectivity levels, Type III warning sign material will have about 3.5 times more retroreflectivity than Type I warning sign material. However, the retroreflectivity levels used for this example are associated with a retroreflective geometry that is based on an observation angle of 0.2 degrees and an entrance angle of 4 degrees. Thus the increase in retroreflection of 3.5 times is associated with specific angles that will not be constant throughout a vehicle's approach to a sign.

Another way to compare the relative performance of sheetingis to compare the fractional retroreflection, or R_T.[13] The fractional retroreflection is usually expressed as a percentage and can be thought of as a measure of the sign sheeting efficiency in terms of its ability to return light to the source in a cone-shaped pattern. By summing the retroreflectivity levels throughout a range of observation angles, the fractional retroreflection is perhaps a more useful measure to describe the performance of a sign throughout the range of distances and angles during which the information from the sign should be available to approaching motorists.

The fractional retroreflection of Type I material is about 8 percent. For Type III beaded material, the fractional retroreflection is about 16 percent. For the microprismatic sign sheeting materials described in ASTM D4956–04, the fractional retroreflection is about 30 to 35 percent. Based on these measures, the efficiency of warning signs in terms of their ability to return light to the source could be doubled by changing the sign sheeting from a Type I material to a Type III material and then could be doubled again by using one of the microprismatic materials currently defined in ASTM D4956–04. The FHWA believes that restricting some types of sign material for certain classes of signs will improve nighttime sign visibility to a level needed to accommodate older drivers.

(5) *The requirements in the proposal would impose additional time and resource burdens on public agencies.*

The Virginia DOT and Branch County (Michigan) both opposed the sign retroreflectivity language asserting that they would incur significant additional costs to meet the requirements. Furthermore, Virginia DOT and Branch County indicated that they have not received complaints about their signs, and that their older signs are replaced on a continuous basis.

A potential outcome of the proposed MUTCD changes described herein, besides the improved nighttime traffic sign visibility as previously explained, is that sign life-cycle costs may be enhanced by using more durable retroreflective sheeting materials (as indicated by the case studies described above). For instance, Type I material typically has an in-service life of about 7 years, while Type III material usually has an in-service life of 10 years.[14] Patents protecting the technology of Type III materials have expired, which has created a very competitive market. The cost difference between Type I and Type III materials is small. In addition, some agencies such as Indiana DOT [15] have studied the in-service life of Type III materials and found that they can be expected to perform adequately for at least 12 years (factors such as geographic regions within the U.S. can impact the expected in-service life of traffic signs). Therefore, even though the initial costs of Type III materials are slightly higher than Type I materials, the longer material life can produce more economical lifecycle costs. The longer material life also results in sign technicians spending less time working within the right-of-way to replace deficient signs, thus reducing their exposure to being struck by out-of-control vehicles.

[11] Carlson, P.J. and H.G. Hawkins. Updated Minimum Retroreflectivity Levels for Traffic Signs. FHWA–RD–03–081. U.S. Department of Transportation, Federal Highway Administration, Washington, DC, 2003.

[12] Carlson, P.J., H.G. Hawkins, G.F. Schertz, D.J. Mace, and K.S. Opiela. Developing Updated Minimum In-Service Retroreflectivity Levels for Traffic Signs. In Transportation Research Record 1824, TRB, National Research Council, Washington, DC, 2003, pp. 133–143.

[13] The fundamentals of retroreflection, including observation angle, entrance angle, and fractional retroreflection, are described in the International Commission on Illumination's report, ''Retroreflection: Definition and Measurement'' CIE Publication 54.2–2001, CIE Central Bureau, Vienna, Austria. The document is available at the following Web address: *http://www.cie.co.at/framepublications.html.*

[14] Hawkins, G.H., P.J. Carlson, B. McCaleb, and C. McIlroy. Impact of Minimum Retroreflectivity Values on Sign Replacement Practices. FHWA/TX–97/1275–1F. College Station, TX, October 1996.

[15] Nuber L. and D. Bullock. Comparison of Observed Retroreflectivity Values with Proposed FHWA Minimums. Proceedings from the TRB's 81st Annual Meeting, Washington, DC, January 2002.

It is important to note that the costs associated with the changes proposed in this SNPA should be based on the incremental cost of using a more efficient type of retroreflective material for the sign face when the sign is replaced prior to the compliance dates. It is also important to note that these costs should be only associated with the classes of signs that have restrictions on the types of sign sheeting materials that can be used. Currently, the MUTCD contains a GUIDANCE statement for nighttime sign inspections to maintain adequate sign retroreflectivity. Therefore, an agency's budget should already include the cost of replacing signs with deficient retroreflectivity.

Agencies currently using the sheeting materials that will become restricted as proposed in this SNPA would have to absorb the costs of using more efficient sign sheeting material within the appropriate compliance dates. To estimate the number of signs made with Type I materials that would need to be upgraded as a result of the proposed changes in this SPNA, data from a previous FHWA-sponsored report [16] were used since no other national data are currently available. The report describes sign information data that were collected from 16 States and 9 local agencies, representing a reasonable national coverage. While the specific dates of the sign information are not referenced in the report, based on the publication date of the report, and assuming the data had been collected a few years before the report was published, it is reasonable to assume the data are now approximately 10 years old. This is important because many agencies might have already upgraded their sign sheeting policy to something other than Type I and therefore the following estimates might be conservative and might represent the worse case scenario.

The State agency data included a total of 2,757 yellow and orange warning signs. The dates of installation of these signs ranged from 1973 to 1995 with an average installation date of 1989. Of that sample, 1,443 (or 52.3 percent) were made with Type I materials.

The local agency data included a total of 2,030 yellow and orange warning signs. The dates of installation of these signs ranged from 1979 to 1994 with an average installation date of 1990. Of that sample, 1,294 (or 63.7 percent) were made with Type I materials.

The FHWA proposes to eliminate Type I material for ground-mounted guide sign legends. Using the same data set described above, it is possible to estimate the number of ground-mounted guide signs using legends made with Type I materials. For the State agencies, a total of 929 signs were measured and 420 (45.2 percent) of the legends were made with Type I material. For the local agencies, a total of 300 signs were measured and 111 (37.0 percent) of the legends were made with Type I material.

Finally, the FHWA proposes to eliminate Type I, II, and III materials for overhead guide sign legends. The previously referenced data source contains no overhead signing data. Therefore, the impacts of the overhead guide sign policy as proposed in this SNPA were assessed using the results of a Virginia DOT survey completed in early 2005.[17] That survey included questions for State agencies regarding overhead guide signs and retroreflective sheeting. Of the 21 States who responded, one State (4.8 percent) uses Type I for legend material, eight States (38.1 percent) use Type III for legend material, and the remaining 12 States (57.1 percent) use Type VII, VIII, or IX for legend material.

Based on this analysis, it can be estimated that approximately 50 to 60 percent of the in-service yellow and orange warning signs use a Type I material for their sign face. Similarly, it can be estimated that approximately 50 to 60 percent of the in-service ground-mounted guide signs use a Type I material for the legend, and that approximately 40 percent of the States use a Type I, II, or III material for the legend of their overhead guide signs. The proposed table of minimum retroreflectivity levels would require that these signs be replaced with more efficient retroreflective materials before the respective compliance dates (7 years for ground-mounted signs and 10 years for street name signs and overhead guide signs).

Discussion of Other Comments

In addition to the five major issues discussed in the previous section, the FHWA also received comments that can be grouped into the following topics:

(6) Extension of the initial NPA comment period;

(7) Maintaining traffic sign retroreflectivity;

(8) Methods to maintain traffic sign retroreflectivity;

(9) Potential safety implications of maintained sign retroreflectivity;

(10) Signs excluded from the proposed rule;

(11) Levels of minimum retroreflectivity and contrast ratios;

(12) Adding minimum retroreflectivity levels for larger observation angles;

(13) Adding types of sheeting to the minimum retroreflectivity table;

(14) Need for technical support and training;

(15) Changes to Section 2A.22 Maintenance; and

(16) Pavement markings.

This section of this SNPA contains a discussion of each of these topics.

(6) *Extension of the initial NPA comment period.*

The NCUTCD, the AASHTO, and Connecticut DOT all requested that the comment period be extended so that their members would have a sufficient period of time to review and develop comments. As a result, the FHWA published a notice in the **Federal Register** on October 22, 2004, that extended the comment period to February 1, 2005 (69 FR 62007). The ATSSA opposed any extension of the comment period, while the AHUA opposed extending the comment period beyond February 1, 2005.

(7) *Maintaining traffic sign retroreflectivity.*

In Section 1A.11 Relation to Other Publications, the FHWA proposed in the NPA to add the 2003 version of the publication ''Maintaining Traffic Sign Retroreflectivity'' to the list of other publications that are useful sources. There were 32 comments from the AASHTO, the NACE, 27 State DOTs, Saline County (Kansas), Pierce County (Washington), and a consultant in support of adding a reference to the publication ''Maintaining Traffic Sign Retroreflectivity'' to the discussion of useful sources of information. The primary reason for their support was the fact that the table showing the minimum levels of retroreflectivity, which is contained in the referenced publication, would thereby not be explicitly included within the body of the MUTCD language. Instead, the table of minimum values would be a part of the referenced publication and could easily be updated as the science of sign visibility continued to evolve.

While the FHWA still feels that the referenced document ''Maintaining Traffic Sign Retroreflectivity'' is a useful document that provides additional details of the methods available to satisfy the intent of the MUTCD sign retroreflectivity language, the FHWA has decided to include the table of

[16] McGee, H.W. and S. Taori. Impacts on State and Local Agencies for Maintaining Traffic Signs Within Minimum Retroreflectivity Guidelines. FHWA–RD–97–053, FHWA, Washington, DC, 1998.

[17] From an unpublished Virginia DOT survey of State DOT overhead sign lighting and sheeting policies, a copy of which is available for inspection on the docket.

minimum retroreflectivity levels in the MUTCD text as previously described. This SNPA references the 2005 Edition of the document entitled ''Maintaining Traffic Sign Retroreflectivity'' that has been updated to reflect the proposed changes described in this SNPA.

The ATSSA and a consultant suggested that the MUTCD should include a statement mentioned in the ''Maintaining Traffic Sign Retroreflectivity'' document that states, ''It should be noted that there may be situations where, based on engineering judgment, an agency may want to provide greater retroreflectivity.'' The FHWA agrees with this concept, but because there has not been sufficient research to document the situations or to what extent additional retroreflectivity would be needed, it is premature to add such a statement. However, the FHWA notes that the proposed SNPA would not restrict agencies from using higher levels of retroreflectivity if, based on engineering judgment or studies, the agencies determine that higher levels are warranted.

The NACE, Saline County (Kansas), and Pierce County (Washington) suggested amending the ''Maintaining Traffic Sign Retroreflectivity'' document to provide the proper context for use of the table showing the retroreflectivity values. In addition, the NACE, Saline County (Kansas), and Pierce County (Washington) suggested that the FHWA provide additional information on how a practitioner would use the table of values to set up a management or assessment program. The FHWA agrees, and has updated the ''Maintaining Traffic Sign Retroreflectivity'' document to provide additional information to support the minimum retroreflectivity table, which the FHWA now proposes to include in the MUTCD. In addition, the FHWA has provided and will continue to provide training material to help agencies comply with the proposed rule.

(8) *Methods to maintain traffic sign retroreflectivity.*

The NPA included five methods that agencies can use to maintain traffic sign retroreflectivity at or above the established minimum levels. The FHWA received 26 comments from the AASHTO, the NACE, the ARTBA, 18 State DOTs, and two counties supporting the flexibility that these methods provide. Other respondents provided a mixed set of requests asking for additional details in some cases and for less detail in other cases. The FHWA considered the extent of these comments and has retained the list of assessment and management methods in Section 2A.09, but has provided less detail about each specific assessment and management method. The additional details requested will be provided in the referenced document entitled, ''Maintaining Traffic Sign Retroreflectivity (2005 Edition).''

(9) *Potential safety implications of maintained sign retroreflectivity.*

Forty-six comments representing State and local DOTs, the AASHTO, the NACE, the AARP, the ARTBA, industry, consultants, and private citizens agreed with the general principle that it is desirable to maintain adequate levels of sign retroreflectivity to enhance safety for motorists during the hours of darkness and during adverse weather. However, the AHAS questioned the sustainability of the NPA proposal in terms of safety validation.

Although there has not been a study definitively linking the safety benefits of maintaining or upgrading retroreflective sign sheeting materials, there have been some investigations that demonstrate potential safety benefits of upgrading sign sheeting materials.[18] The FHWA believes these investigations provide support for the potential safety benefits of upgrading these materials.

The City of Sioux City, Iowa has a population of approximately 85,000. The City was using Type I materials prior to 1995 when a sign upgrade program was initiated that started with Type III material, but eventually moved to a Type IX material. The City was replacing approximately 10 percent of its total sign inventory per year. Using crash data, the City determined that the crashes per million vehicle miles dropped from about 6.5 in 1995 to about 4.0 in 1999. In addition, the ratio of nighttime to daytime crashes during the same period dropped from about 1.19 to about 0.96. The City estimated the costs of the program to be approximately $150,000 for the three years from 1997 to 1999. During that same time, the City estimated a total cost savings of almost five million dollars, using an average crash cost of $2,350. The benefit-cost ratio was estimated to be 34:1.

Putnam County, New York is a rural county located just north of New York City. The County is responsible for maintaining over 115 miles of roads. In 1992, all county road signs were fabricated with Type I materials. In 1993 and 1994, the County upgraded over 2,000 traffic signs to Type III material (for regulatory and warning signs on roadways with recommended speeds of 30 mph and above) and Type IX material (for arrows and chevrons as well as signs on roadways with recommended speeds of 25 mph and below). Three county roads were chosen for analysis to determine the impacts of the sign sheeting upgrade program. Two of the roads were chosen because they had the highest traffic volumes in the county and the third road was chosen because it had the highest crash rate in the county. The available accident statistics for 1992 (the year before the sign upgrades) and 1995 (the year after the higher performance signs were installed) were analyzed in this study. Based on the results of this study, the difference in reported crashes between 1992 and 1995 was impressive. The total number of crashes was reduced by 26 percent, the number of injury crashes was reduced by 23 percent, and the number of nighttime crashes was reduced by 50 percent.

There are a number of limitations associated with each of these investigations. For example, other roadway improvements such as fresh pavement overlays and new pavement markings were implemented simultaneously with the signing upgrades, which make the determination of the safety effects directly associated with the signing upgrades difficult to assess. In addition, the investigations have not been individually published in peer-reviewed journals.

Despite these limitations, these investigations demonstrate that upgrading sign sheeting material can lead to improved safety. More importantly, maintaining adequate sign retroreflectivity is consistent with one of the FHWA's primary goals, which is to improve safety on the nation's streets and highways. Many safety strategies are dependent on adequate sign visibility. The FHWA expects that improvements to nighttime visibility of traffic signs will help drivers better navigate the roads at night and thus promote safety and mobility, which is consistent with the purposes of traffic control devices as described in Section 1A.01—Purposes of Traffic Control Devices of the MUTCD. Improvements in sign visibility will also support the FHWA's efforts to be responsive to the needs of older drivers, which is important because the number of older drivers is expected to increase significantly during the next 30 years.

(10) *Signs excluded from the proposed rule.*

In the NPA, the FHWA proposed to list in an OPTION paragraph signs that agencies may exclude from the

[18] D. Ripley. Quantifying the Safety Benefits of Traffic Control Devices—Benefit-Cost Analysis of Traffic Sign Upgrades. Accepted for publication in the proceedings of the 2005 Mid-Continent Transportation Research Symposium, Ames, Iowa, August 2005. This paper can be found at *http://tcd.tamu.edu/Documents/MinRetro/MinRetro.htm.*

proposed assessment methods and minimum maintained sign retroreflectivity levels. The signs that the FHWA proposed to exclude were: (1) Parking, Standing, and Stopping signs (R7 and R8 series), (2) Walking, Hitchhiking, and Crossing signs (R9 series, R10–1 through R10–4b), (3) Adopt-A-Highway series, (4) All signs with blue or brown backgrounds, and (5) Bikeway signs that are intended for exclusive use by bicyclists and/or pedestrians. The intent was that the proposed list would not exclude those signs from the existing retroreflectivity and maintenance requirements and GUIDANCE that are currently included in the MUTCD.

The FHWA received 10 comments from Michigan DOT, Monroe County (New York), the ATSSA, the AARP, industry, and consultants in response to the proposed language in the OPTION paragraph described above. The FHWA considered the comments and has decided not to make any changes. While one of the key goals of the proposed MUTCD language described herein is to promote safety, the FHWA believes that the minimum retroreflectivity levels proposed in this SNPA should include, at a minimum, the most important signs—regulatory, warning, and guide signs.

The FHWA also received comments from the AHAS, the ATSSA, industry, and two consultants indicating that blue and brown signs should be included in the table of minimum retroreflectivity levels. Research is underway to provide a set of recommended minimum retroreflectivity levels for signs with blue and brown backgrounds, but there are no immediate plans to establish minimum retroreflectivity levels for these or other sign colors. The FHWA seeks comments on the need for retroreflectivity levels to be developed for signs with blue and brown backgrounds.

(11) *Levels of minimum retroreflectivity and contrast ratios.*

A representative of the sign industry opposed the levels of retroreflectivity proposed in the NPA, stating that they corresponded to a level of sign performance that is too low, and do not meet the needs of drivers on roads with both horizontal and vertical curvature, drivers on roads that are located in high ambient light conditions, drivers of large trucks, or older drivers.

The FHWA acknowledges that the initial research did not cover all conditions possible; however, providing adequate traffic sign luminance for all drivers in the worst possible situations could not be accomplished by retroreflectivity alone and would require additional illumination. The initial research did include sensitivity analyses for different vehicle sizes, including large trucks. Also, the subjects used in the studies were at least 55 years of age with a median age of 62 years (the oldest driver to complete the study was over 80 years of age). The minimum retroreflectivity levels have been estimated to provide a nighttime accommodation level that corresponds to levels above 90 percent of the nighttime driving population. It should be noted that more studies are needed as recommended in some FHWA publications.[19] [20]

The Virginia DOT questioned whether minimum contrast ratios are needed for the white on green signs since a minimum contrast ratio is shown for white on red signs. The FHWA believes that contrast ratios are not needed for white on green signs since green signs are made with green sheeting and are much more durable in terms of maintaining their color than red signs, which are made from silk screening and thus fade towards white as the silk screen's red color fades.

A consultant opposed the contrast ratios, stating that contrast ratios of 3:1 are too low, and recommended that the ratio be raised to 4:1. The FHWA disagrees because the key issue is that the contrast ratio for the minimum retroreflectivity levels is assigned to red signs. These are signs that have unique shapes and/or sizes in addition to their legends. Therefore, the information they convey is provided through an iconic manner, rather than textual. For iconic signs, or recognition-based tasks, a contrast ratio of 3:1 is adequate.[21] For legibility-based tasks, contrast ratios higher than 3:1 would be preferred.

The Arizona DOT opposed any reference in the MUTCD to actual minimum retroreflectivity values, either in research or in another FHWA publication. The Arizona DOT states that the research values have fluctuated in the past 10 years, and with so many other variables affecting the performance of the signs at night, including vehicle headlights, driver eyesight, weather conditions, etc., the Arizona DOT does not agree with the values as set by the ASTM sheeting types. The FHWA disagrees. The FHWA decided to use the ASTM sheeting type designations for two reasons. First, there is not a better or as well recognized classification scheme for retroreflective sheeting, and second, luminance would be a better measure of sign performance, but there is not a practical way to consistently measure luminance in the field. As new ASTM sheeting types are designated, the minimum retroreflectivity table will be updated as appropriate.

The New Jersey DOT suggested that consideration be given to the fact that retroreflectivity of signs can be taken to a level where the glare is unsatisfactory, and that some signs with a gloss finish reflect light from headlights to a point where the sign becomes illegible. The FHWA is not aware of any research or data showing that retroreflective signs are too bright, and believes that the minimum levels will not lead to signs being excessively retroreflective.

(12) *Adding minimum retroreflectivity levels for larger observation angles.*

Two comments from the sign industry and another from a consultant opposed the 0.2-degree observation angle used in the referenced table of minimum retroreflectivity levels, and suggested that a 0.5-degree observation angle be included in order for the levels to be more meaningful and more easily adaptable in the future. The FHWA agrees that changing the standard observation angle to 0.5 degrees would provide a more meaningful retroreflectivity value. Research has been completed that supports moving toward the 0.5-degree concept and the ASTM has started working toward a revision to its specifications to describe 0.5-degree measurements.[22] However, there are currently no hand-held devices that measure an observation angle of 0.5 degrees conveniently when conducting field measurements. While there are some devices currently in the design and prototype stage, the FHWA does not believe it is practical to implement minimum retroreflectivity levels based on an observation angle of 0.5 degrees until measuring devices become readily available. At that time there may be a need for an alternative table and a transition period established while the 0.2-degree measurement geometries and devices are phased out.

(13) *Adding types of sheeting to the minimum retroreflectivity table.*

[19] Carlson, P.J. and H.G. Hawkins. Updated Minimum Retroreflectivity Levels for Traffic Signs. Final Report FHWA–RD–03–081. Federal Highway Administration, Washington, DC, 2003.

[20] Carlson, P.J., H.G. Hawkins, G.F. Schertz, D.J. Mace, and K.S. Opiela. Developing Updated Minimum In-Service Retroreflectivity Levels for Traffic Signs. In Transportation Research Record 1824, TRB, National Research Council, Washington, DC, 2003, pp. 133–143.

[21] Carlson, P.J. and H.G. Hawkins. Updated Minimum Retroreflectivity Levels for Traffic Signs. Final Report FHWA–RD–03–081. Federal Highway Administration, Washington, DC, 2003.

[22] Changes to ASTM E1709 are currently underway to include the possibility of measuring sign retroreflective sheeting at alternative observation angles, including 0.5 degrees.

The ATSSA, Texas DOT, a representative of the sign industry, and a private citizen all commented that the Minimum Maintained Retroreflectivity Levels table did not include values for Type IV material, which is now used by many State and local DOTs. During the development of the FHWA minimum retroreflectivity levels, the Type IV designation was a leftover designation for a material that was discontinued. Types VII, VIII, and IX materials were introduced and this left a large gap in performance between the Type III materials and the Type VII, VIII, and IX materials. This gap was recently filled when manufacturers began offering a product with retroreflectivity levels near the previous Type IV designation. The ASTM subsequently revamped the Type IV retroreflectivity levels as a result of the increased interest in Type IV materials. Based on the current commercial availability of Type IV retroreflective material, the FHWA proposes in this SNPA to include requirements for Type IV material in the table of Minimum Maintained Retroreflectivity Levels.

The ATSSA, a consultant, and a private citizen all commented that the Minimum Maintained Retroreflectivity Levels table did not include values for Type VI, which is in widespread use throughout the country. Type VI materials are flexible materials that are usually associated with roll-up orange traffic signs. The current research literature does not include findings specifically targeting Type VI materials. However, Type VI materials are orange and prismatic, like Types VII, VIII, and IX and should meet the same minimum performance levels of these signs. Therefore, the FHWA proposes in this SNPA to include requirements for Type VI material in the table of Minimum Maintained Retroreflectivity Levels.

The FHWA also proposes to expand the table to include Type X materials. Consequently, all currently defined ASTM Type designations that are used for traffic signs would be included in the Minimum Maintained Retroreflectivity Levels table.

(14) *Need for technical support and training.*

Five comments from Hillsdale County (Michigan), Pierce County (Washington), Saline County (Kansas), the APWA, and the NACE suggested that the FHWA provide training for road agencies in terms of developing and conducting assessment and management methods in order to comply with the MUTCD. The FHWA has developed and provided train-the-trainer workshops and teaching materials to FHWA Local Technical Assistance Program (LTAP) instructors.[23] These instructors have, and will continue to provide training across the country to local and State employees.

(15) *Changes to Section 2A.22 Maintenance.*

In Section 2A.22 Maintenance, the FHWA proposed in the NPA to change the first paragraph of the GUIDANCE statement by replacing the phrase ''adequate retroreflectivity'' with ''retroreflectivity levels as indicated in Section 2A.09.'' The FHWA received nine comments regarding Section 2A.22. Eight of those comments (from private citizens and two consultants) suggested changing the concept of retroreflectivity that ''should'' be maintained, to retroreflectivity that ''shall'' be maintained. These comments were provided as suggestions to strengthen the MUTCD language associated with the NPA so that the Congressional directive would be more clearly satisfied.

The FHWA considered these comments and agrees. However, because we propose to include a STANDARD statement in Section 2A.09 that requires public agencies or officials having jurisdiction to use an assessment method to maintain traffic sign retroreflectivity at or above the minimum levels, the addition of a similar STANDARD statement in Section 2A.22 would be redundant.

The other commenter (a private citizen) suggested rewording the first paragraph of Section 2A.22 to read as follows: ''All traffic signs should be kept properly positioned, clean, and legible, and should have retroreflectivity levels evaluated by one of the methods indicated in Section 2A.09.'' The FHWA disagrees with this comment because it does not provide the flexibility for agencies to develop methods other than the five methods listed in Section 2A.09.

(16) *Pavement markings.*

Section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Pub. L. 102–388; October 6, 1992) directed the Secretary of Transportation to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained for traffic signs and pavement markings, which apply to all roads open to public travel. The AHAS commented that the NPA failed to fulfill this statutory command because minimum retroreflectivity levels for pavement markings were not included.

The FHWA is currently conducting research to develop a standard for minimum levels of pavement marking retroreflectivity and intends to issue a separate NPA to amend the MUTCD to include a standard for minimum levels of pavement marking retroreflectivity. The pavement marking retroreflectivity NPA is not expected to be issued until the rulemaking for minimum traffic sign retroreflectivity is finalized.

Section-by-Section Analysis

The FHWA is seeking comments on the changes proposed in this SNPA to the Introduction, Section 1A.11 Relation to Other Publications, Section 2A.09 Minimum Retroreflectivity Levels, and Section 2A.22 Maintenance.

Introduction

The FHWA proposes in this SNPA to add STANDARD language to the Introduction describing the compliance periods associated with the new Section 2A.09 Maintaining Minimum Retroreflectivity. The proposed language would give agencies 2 years from the date of the final rule for implementation and continued use of an assessment or management method; 7 years from the effective date of the final rule for replacement of regulatory, warning, and ground-mounted guide signs that are identified as having inadequate retroreflectivity by the assessment or management method; and 10 years from the effective date of the final rule for replacement of street name signs and overhead guide signs that are identified as having inadequate retroreflectivity by the assessment or management method. This language was modified from the language that was included in the NPA in order to clarify the intent of the compliance periods.

Part 1—General

In Section 1A.11 Relation to Other Publications, the FHWA proposes adding a new SUPPORT paragraph that references the availability of the publication ''Maintaining Traffic Sign Retroreflectivity (2005 Edition),''[24] as this publication contains supplemental information about the proposed MUTCD language that many respondents to the NPA requested.

Part 2—Signs

In Section 2A.09 Maintaining Minimum Retroreflectivity, the FHWA is proposing in this SNPA to include a STANDARD statement that requires public agencies or officials having

[23] A description of the workshop including teaching materials and the report can be found at *http://tcd.tamu.edu/Documents/MinRetro/MinRetro.htm.*

[24] The document, ''Maintaining Traffic Sign Retroreflectivity, 2005 Edition'' is available online at the following Web address: *http://www.fhwa.dot.gov/retro.*

jurisdiction to use an assessment or management method to maintain traffic sign retroreflectivity at or above the minimum levels established in the proposed GUIDANCE paragraph that follows the STANDARD.

The proposed GUIDANCE statement that immediately follows the STANDARD states that except for the signs excluded in the proposed OPTION in Section 2A.09, one or more of the five assessment or management methods that are described immediately following the GUIDANCE statement should be used to maintain traffic sign retroreflectivity at or above the minimum levels identified in a new proposed Table 2A–3.

In this SNPA, the FHWA proposes to add the STANDARD statement to enhance safety through maintained sign visibility and to address comments questioning whether the NPA proposal satisfied the Congressional intent of the Appropriations Act of 1993. Additionally, the FHWA proposes to include the table of minimum maintained retroreflectivity levels as a new Table 2A–3. Existing Tables 2A–3 and 2A–4 will be renumbered as Tables 2A–4 and 2A–5, respectively, and all references to these renumbered tables will be appropriately adjusted.

In this SNPA, the FHWA proposes to add a SUPPORT paragraph that explains that although conformance with the proposed STANDARD can be initially achieved by implementing an assessment or management method, the agency must continue to use the method to maintain the minimum levels established in this section in order to retain conformance with the STANDARD. This proposed SUPPORT paragraph also informs readers that the publication entitled ''Maintaining Traffic Sign Retroreflectivity'' contains additional information about these methods and provides a cross-reference to Section 1A.11, which describes how to obtain this publication.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. The FHWA will file comments received after the comment closing date and will consider late comments to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after the close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and under the regulatory policies and procedures of the U.S. Department of Transportation, because of the substantial public interest in the retroreflectivity of traffic signs. This rulemaking addresses comments received in response to the Office of Management and Budget's (OMB's) request for regulatory reform nominations from the public. The OMB is required to submit an annual report to Congress on the costs and benefits of Federal regulations. The 2002 report included recommendations for regulatory reform that OMB requested from the public.[25] One recommendation was that the FHWA should establish standards for minimum levels of brightness of traffic signs.[26] The FHWA has identified this rulemaking as responsive to that recommendation.

It is anticipated that the economic impact of this rulemaking would cause minimal additional expenses to public agencies. In 2003, the FHWA updated its analysis of the cost impacts to State and local agencies to reflect higher material costs due to inflation, an increase in the proportion of signs that would be replaced with higher-level sign sheeting material, and changes in the overall mileage of State and local roads. The findings of the 2003 analysis show that the costs of the proposed action to State and local agencies would be minimal.[27] The proposed phase-in periods allows sign replacement during the normal sign replacement cycle. Therefore, any marginal costs would be incremental for the upgraded level of sign retroreflectivity and most of the material available at the time of sign replacement will be of the higher retroreflective quality. Finally, the FHWA expects that the proposed levels and maintenance methods will help to promote safety and mobility on the nation's streets and highways and will result in minimum additional expense to public agencies or the motoring public. Specific examples are described in the section entitled ''Discussion of Major Comments.''

The proposed 7-year regulation implementation period for ground-mounted signs would allow State and local agencies to delay replacement of recently installed Type I signs until they have reached their commonly accepted 7-year service life. The proposed 10-year compliance period for overhead signs would allow an extended period of time because of the longer service life typically used for those signs. The changes proposed in this SNPA do not affect the impacts assessments described above.

The FHWA has considered the benefits and costs associated with this rulemaking and believes that the benefits outweigh the costs. Currently, the MUTCD requires that traffic signs be illuminated or retroreflective to enhance nighttime visibility. The changes proposed in this SNPA provide additional guidance, clarification, and flexibility in maintaining traffic sign retroreflectivity that is already required by the MUTCD. The proposed levels and maintenance methods consider changes in the composition of the vehicle population, vehicle headlamp design, and the demographics of drivers.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities and has determined that this proposed action would not have a significant economic impact on a substantial number of small entities.

This rule would apply to State Departments of Transportation in the execution of their highway programs, specifically with respect to the retroreflectivity of traffic signs. Additionally, sign replacement is eligible for up to 100 percent Federal-aid funding—this applies to local jurisdictions and tribal governments, pursuant to 23 U.S.C. 120(c). Therefore, the implementation of the proposed provisions in this rule would not affect the economic viability or sustenance of small entities, as States are not included

[25] A copy of the OMB report ''Stimulating Smarter Regulation: 2002 Report to Congress on the Costs and Benefits of Regulation and Unfunded Mandates on State, Local, and Tribal Entities'' is available at the following Web address: *http://www.whitehouse.gov/omb/inforeg/summaries_nominations_final.pdf.*

[26] A complete compilation of comments received by OMB is available at the following Web address: *http://www.whitehouse.gov/omb/inforeg/key_comments.html.* Comment #93 cites a 1999 report generated by the Advocates for Auto and Highway Safety entitled, ''Stuck in Neutral: Recommendations for Shifting the Highway and Auto Safety Agenda into High Gear—A Comprehensive Report on the Major Highway and auto Safety Issues Facing America'' September 1999. This report is available at the following Web address: *http://www.saferoads.orgpolls/stuckinneutral.htm.*

[27] The ''Impacts Analysis'' report is available at the following Web address: *http://dmses.dot.gov/docimages/pdf92/290314_web.pdf.*

in the definition of a small entity that is set forth in 5 U.S.C. 601.

Executive Order 13132 (Federalism)

The FHWA analyzed this proposed amendment in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this proposed action would not have a substantial direct effect or sufficient federalism implications on States and local governments that would limit the policy-making discretion of the States and local governments. Nothing in the MUTCD directly preempts any State law or regulation.

The MUTCD is incorporated by reference in 23 CFR part 655, subpart F. These proposed amendments are in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of the nation's streets and highways.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Unfunded Mandates Reform Act

This SNPA would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). The findings of the impacts analysis indicate that this proposed action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120.7 million or more in any one year. In addition, sign replacement is eligible for up to 100 percent Federal-aid funding—this applies to local jurisdictions and tribal governments, pursuant to 23 U.S.C. 120(c).

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for the purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, to eliminate ambiguity, and to reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This is not an economically significant proposed action and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed action would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that this is not a significant energy action under that order because although it is a significant regulatory action under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Authority: 23 U.S.C. 101(a), 104, 105, 109(d), 114(a), 135, 217, 307, 315, and 402(a); sec. 406(a), Pub. L. 102–388, 106 Stat. 1520, 1564; 23 CFR 1.32; and 49 CFR 1.48(b).

Issued on: May 2, 2006.

Frederick G. Wright, Jr.,

Federal Highway Executive Director.

[FR Doc. E6–6882 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–131264–04]

RIN 1545–BD55

Withdrawal of Proposed Regulations Regarding Intercompany Transactions; Manufacturer Incentive Payments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking (REG–131264–04) regarding the treatment of manufacturer incentive payments. The proposed regulations were published in the **Federal Register** on August 13, 2004 (69 FR 50112). After consideration of additional issues, the IRS and Treasury Department have decided to withdraw the proposed regulations.

DATES: These proposed regulations are withdrawn May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Frances Kelly, (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2004, the IRS and Treasury Department published a notice of proposed rulemaking (REG–131264–04) in the **Federal Register** (69 FR 50112) proposing regulations to address additional transactions involving

manufacturer incentive payments and to clarify the proper treatment of such incentive payments under the intercompany transaction regulations.

On April 25, 2005, the IRS and Treasury Department published Rev. Rul. 2005–28 (2005–19 IRB 997), which suspends, in part, Rev. Rul. 76–96 (1976–1 CB 23). Rev. Rul. 2005–28 states that the IRS will not apply, and taxpayers may not rely upon, the conclusion reached in Rev. Rul. 76–96 that certain rebates made by a manufacturer to retail customers are ordinary and necessary business expenses deductible under section 162, pending the IRS's reconsideration of the issue and publication of subsequent guidance.

The example in paragraph (c) of the proposed regulations relies, in part, upon the premise that the manufacturer incentive payment is an ordinary and necessary business expense deductible under section 162. To the extent that this premise is correct, paragraph (d) of the proposed regulations illustrates the proper application of the intercompany transaction regulations. However, because Rev. Rul. 2005–28 suspends Rev. Rul. 76–96, in pertinent part, these paragraphs of the proposed regulations are withdrawn pending further guidance on the section 162 issue considered in Rev. Rul. 76–96.

The example in paragraph (e) of the proposed regulations illustrates the application of the original issue discount rules to the facts described in paragraph (e) and, based on these facts, concludes that the transaction is not an intercompany transaction. This conclusion is not dependent upon the issue being reconsidered in Rev. Rul. 76–96. Nevertheless, because the example in paragraph (e), standing alone, does not provide guidance with respect to the application of the intercompany transaction regulations to an intercompany transaction, paragraph (e) of the proposed regulations is also withdrawn.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG–131264–04) that was published in the **Federal Register** on August 13, 2004 (69 FR 50112) is withdrawn.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E6–6888 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–146384–05]

RIN 1545–BF02

Application of Section 338 to Insurance Companies; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document corrects a notice of proposed rulemaking that was published in the **Federal Register** on Monday, April 10, 2006 (71 FR 18053).

The document contains temporary regulations providing guidance under section 197 that apply to the treatment of certain insurance contracts assumed in an assumption reinsurance transaction and section 338 that apply to a deemed sale or acquisition of an insurance company's assets pursuant to an election under section 338 of the Internal Revenue Code, to a sale or acquisition of an insurance trade or business subject to section 1060, and to the acquisition of insurance contracts through assumption reinsurance.

DATES: This correction is effective April 10, 2006.

FOR FURTHER INFORMATION CONTACT: Mark J. Weiss, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–146384–05), that is the subject of this correction, is under sections 197, 338, and 846 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–146384–05) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–146384–05), which was the subject of FR Doc. 06–3321, is corrected as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.846–2 [Corrected]

On page 18054, column 3, paragraph instruction Par. 5., the language ''Par. 5. Section 1.846–2 as amended by adding new paragraph (d) to read is follows:'' is corrected to read ''Par. 5. Section 1.846–2 is amended by adding new paragraph (d) to read as follows:''.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E6–6894 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0314; FRL–8165–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland for the purpose of amending the regulations pertaining to Stage II Vapor Recovery at Gasoline Dispensing Facilities. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will

not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 7, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–0314, by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. E-mail: *morris.makeba@epa.gov.*

C. Mail: EPA–R03–OAR–2006–0314, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–0314. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the title, ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities,'' that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: April 24, 2006.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 06–4198 Filed 5–5–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991–AB67

Acquisition Regulation: Implementation of DOE's Cooperative Audit Strategy for Its Management and Operating Contracts

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to revise and expand policy and requirements for contractor internal audits, through the use of DOE's Cooperative Audit Strategy. The amendments would ensure that internal contractor audits are conducted in a manner that ensures reliability.

DATES: Comments should be submitted on or before July 7, 2006.

ADDRESSES: You may submit comments, identified by RIN number 1991–AB67, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: helen.oxberger@hq.doe.gov*. Include RIN number 1991–AB67 in the subject line of the message.
- *Mail:* Helen Oxberger, Mail Code MA–61, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Helen Oxberger, (202) 287–1332.

SUPPLEMENTARY INFORMATION:

I. Background

The Department contracts for the management and operation of its Government owned or controlled research, development, special production, or testing facilities through the use of management and operating (M&O) contracts. The Department historically expends approximately 80% of its annual appropriations through these M&O prime contracts. Thus, it is imperative for the Department to develop approaches which permit oversight of M&O expenditures in order for the Department to satisfy its oversight responsibility and to ensure that DOE funds are expended on allowable and reasonable costs.

The creation and maintenance of rigorous business, financial, and accounting systems by contractors are crucial to assuring the integrity and reliability of the cost data used by the DOE's Chief Financial Officer (CFO), the Inspector General (IG), and contracting

officers (COs). To ensure the reliability of these systems, DOE requires some of its contractors to maintain an internal audit activity, that is, an internal audit organization, which is responsible for: (i) Performing operational and financial audits including incurred cost audits, and (ii) assessing the adequacy of management control systems.

The Cooperative Audit Strategy is a program that the IG, partnering with contractors' internal audit groups, the CFO, and the Office of DOE Procurement and Assistance Management, developed and implemented in October 1992 to maximize the overall audit coverage of M&O contractors' operations and to fulfill the IG's responsibility for auditing the costs incurred by major facilities contractors. The Cooperative Audit Strategy enhances the DOE's efficient use of available audit resources by allowing the IG to rely on the work of contractors' internal audit organization. The IG has adopted the Cooperative Audit Strategy at most major contractor locations.

The success of the Cooperative Audit Strategy depends on the IG and contractor internal audit groups working closely with DOE. The contractor internal audit groups are committed to a continuing evaluation of the process and have established the Steering Committee for Quality Auditing to address current issues and implement on-going improvements.

Currently, the Cooperative Audit Strategy is implemented under an alternative clause in the Accounts, records, and inspection contract clause at 970.5232–3. The proposed rule would eliminate the alternative and amend the contract clause to require the use of the Cooperative Audit Strategy in all M&O contracts.

II. Section-by-Section Analysis

DOE is proposing to amend the DEAR as follows:

1. Section 970.5203–1, Management controls, paragraph (a)(4) would be amended by adding a sentence which requires the contractor to annually, or at other times as directed by the contracting officer, provide copies of reports on the status of audit recommendations.

2. Section 970.5232–3, Accounts, records, and inspection, would be amended by removing Alternative II and by adding a new paragraph (i) which would establish requirements that:

A. Upon contract award, exercise of any contract option, or the extension of the contract, the contractor shall submit to the contracting officer an internal audit implementation design. The audit implementation design would describe (i) the internal audit activity's placement within the contractor's organization and reporting requirements; (ii) the size, experience, and educational standards of the internal audit staff; (iii) the relationship of the internal audit activity to corporate entities; if any; (iv) the standards to be used for conducting the audits; (v) the overall internal audit strategy for the performance period of the contract, considering particularly the method of auditing costs incurred; (vi) the intended use of external audit resources; (vii) the plan for internal audits of subcontracts, both pre- and post-award; and (viii) the schedule for peer reviews.

B. Annually, the contractor shall submit a summary of the previous fiscal year's internal audits, reflecting the results of those audits, and actions, proposed or taken to resolve any identified weaknesses.

C. Annually, the contractor shall submit an audit plan for internal audits for the next fiscal year.

D. All such documents shall be satisfactory to the contracting officer.

3. Section 970.5232–3 is amended by adding a new paragraph (j) which states that upon discovery the contractor has claimed unallowable costs, the contracting officer may (i) direct the contractor to cease using, in whole or in part, the DOE special financial institution account, (ii) require a refund, (iii) reduce the contractor's fee, or (iv) take any other action authorized in law, regulations, or this contract.

III. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a significant regulatory action under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993). Accordingly, this proposed rule is not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (67 FR 53461, August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's Web site: *http://www.gc.doe.gov*. DOE has reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. The proposed rule would amend procurement policies that apply only to DOE M&O contracts and would impact only DOE's M&O contractors none of whom are small entities. This rule would not have a significant economic impact on small entities. On the basis of the foregoing, DOE certifies that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking.

C. Review Under the Paperwork Reduction Act

Any additional information collection requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, reflected by today's regulatory action are insignificant. Existing burdens associated with the collection of certain contractor compensation data have been previously cleared under OMB control number 1910–4100 which expires on April 30, 2008.

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule deals only with agency procedures, and; therefore, is covered under the Categorical Exclusion in paragraph A6 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism'' (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the

constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountability process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's proposed rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and tribal governments, and the private sector. The Department has determined that today's regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guideline issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Approval by the Office of the Secretary

The Office of the Secretary has approved issuance of this proposed rule.

List of Subjects in 48 CFR Part 970

Government procurement.

Issued in Washington, DC, on April 27, 2006.

Edward R Simpson,

Director, Office of Procurement and Assistance Management, Department of Energy.

Robert C. Braden, Jr.,

Director, Office of Procurement and Assistance Management, National Nuclear Security Administration.

For the reasons set forth in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282a, 2282b, 2282c; 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418b; 50 U.S.C. 2401 *et seq.*

2. Section 970.5203–1 is amended by adding a sentence to the end of paragraph (a)(4).

970.5203–1 Management controls.

* * * * *

(a) * * *

(4) * * * Annually, or at other intervals directed by the contracting officer, the contractor shall supply to the contracting officer copies of the reports reflecting the status of recommendations resulting from management audits performed by its internal audit activity and any other audit organization. This requirement may be satisfied in part by the reports required under paragraph (i) of DEAR 970.5232–3, Accounts, records, and inspection.

* * * * *

3. Section 970.5232–3 is amended by revising the date of the clause, adding new paragraphs (i) and (j), and removing

Alternative II, and adding new paragraphs (i) and (j) to read as follows:

970.5232–3 Accounts, records, and inspection.

*** * * Accounts, Records, and Inspection (XX XXXX)**

* * * * *

(i) *Internal audit.* The contractor agrees to design and maintain an internal audit plan and an internal audit organization.

(1) Upon contract award, the exercise of any contract option, or the extension of the contract, the contractor must submit to the contracting officer for approval an Internal Audit Implementation Design to include the overall strategy for the internal audits. The Audit Implementation Design must describe:

(i) The internal audit organization's placement within the contractor's organization and its reporting requirements;

(ii) The audit organization's size and the experience and educational standards of its staff;

(iii) The audit organization's relationship to the corporate entities of the contractor;

(iv) The standards to be used in conducting the internal audits;

(v) The overall internal audit strategy of this contract, considering particularly the method of auditing costs incurred in the performance of the contract;

(vi) The intended use of external audit resources;

(vii) The plan for audit of subcontracts, both pre-award and post-award; and

(viii) The schedule for peer review of internal audits by other contractor internal audit organizations.

(2) By each January 31 of the contract performance period, the contractor must submit an annual audit report, providing a summary of the audit activities undertaken during the previous fiscal year. That report shall reflect the results of the internal audits during the previous fiscal year and the actions to be taken to resolve weaknesses identified in the contractor's system of business, financial, or management controls.

(3) By each June 30 of the contract performance period, the contractor must submit to the contracting officer an annual audit plan for the activities to be undertaken by the internal audit organization during the next fiscal year that is designed to test the costs incurred and contractor management systems described in the internal audit design.

(4) The contracting officer may require revisions to documents submitted under paragraphs (i)(1), (i)(2), and (i)(3) of this clause, including the design plan for the internal audits, the annual report, and the annual internal audits.

(j) *Remedies.* If at any time during contract performance, the contracting officer determines that unallowable costs were claimed by the contractor to the extent of making the contractor's management controls suspect, or the contractor's management systems that validate the costs incurred and claimed suspect, the contracting officer may, in his or her sole discretion, require the contractor to cease using the special financial institution account in whole or with regard to specified accounts, requiring reimbursable costs to be claimed by periodic vouchering. In addition, the contracting officer, where he or she deems it appropriate, may; impose a penalty under DEAR 970.5242–1, Penalties for unallowable costs; require a refund; reduce the contractor's otherwise owed fee; and take such other action as authorized in law, regulation, or this contract.

[FR Doc. E6–6736 Filed 5–5–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060418103–6103–01; I.D. 040706F]

RIN 0648–AT59

Fisheries of the Northeastern United States; Proposed 2006 Through 2008 Specifications for the Spiny Dogfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the spiny dogfish fishery for the 2006 through 2008 fishing years (May 1, 2006, through April 30, 2009). The implementing regulations for the Spiny Dogfish Fishery Management Plan (FMP) require NMFS to publish specifications for up to a period of 5 years and to provide an opportunity for public comment. The intent of this rulemaking is to specify the commercial quota and other management measures, such as possession limits, to rebuild the spiny dogfish resource. NMFS also proposes that the possession limits for dogfish be set at 600 lb (272 kg) for both quota periods 1 and 2 of the fishery.

DATES: Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on May 23, 2006.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.nmfs.gov*.Written comments on the proposed rule may be sent by any of the following methods:

- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments 2006–2008 Dogfish Specifications'';
- Fax to Patricia A. Kurkul (978) 281–9135;
- E-mail to the following address: *DogfishSpecs2006@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments 2006–2008 Dogfish Specifications.''
- Electronically through the Federal e-Rulemaking portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, (978)281–9259, fax (978)281–9135.

SUPPLEMENTARY INFORMATION: Spiny dogfish were declared overfished by NMFS on April 3, 1998, and added to that year's list of overfished stocks in the *Report on the Status of the Fisheries of the United States*, prepared pursuant to section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Consequently, the Magnuson-Stevens Act required the preparation of measures to end overfishing and to rebuild the spiny dogfish stock. A joint FMP was developed by the Mid-Atlantic and New England Fishery Management Councils (Councils) during 1998 and 1999. The Mid-Atlantic Fishery Management Council (MAFMC) was designated as the administrative lead on the FMP.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying the commercial quota and other management measures (e.g., minimum

or maximum fish sizes, seasons, mesh size restrictions, possession limits, and other gear restrictions) necessary to assure that the target F specified in the FMP will not be exceeded in any fishing year (May 1 April 30), for a period of 1 5 fishing years. The target F is not to exceed 0.08. The annual quota is allocated between two semi-annual quota periods as follows: period 1, May 1 through October 31 (57.9 percent); and period 2, November 1 through April 30 (42.1 percent).

The Spiny Dogfish Monitoring Committee (Monitoring Committee), comprised of representatives from states; MAFMC staff; New England Fishery Management Council (NEFMC) staff; NMFS staff; and two non-voting, ex-officio industry representatives (one each from the MAFMC and NEFMC regions) is required to review annually the best available information and to recommend a commercial quota and other management measures necessary to achieve the target F for the 1–5 fishing years. The Council's Joint Spiny Dogfish Committee (Joint Committee) then considers the Monitoring Committee's recommendations and any public comment in making its recommendation to the two Councils. Afterwards, the MAFMC and the NEFMC make their recommendations to NMFS. NMFS reviews those recommendations to assure they are consistent with the FMP, and may modify them if necessary. NMFS then publishes proposed measures for public comment.

Monitoring Committee Recommendations

The Monitoring Committee met on September 22, 2005 and developed recommendations based on the latest stock status updates. Although the Spiny Dogfish FMP allows for a maximum fishing mortality rate of F = 0.08, the 37th Stock Assessment Review Committee (SARC) recommended that total removals not exceed the amount corresponding to F=0.03 ($F_{rebuild}$). The F=0.08 maximum identified in the FMP was based on the expectation, in 1999, that mature female biomass would recover to 90 percent SSB_{max} by 2003. The management advice provided by the 37th SARC was based on their review of the 2003 stock assessment. That assessment estimated mature female biomass in 2003 at around 29 percent of SSB_{max}. Updated stock status information reviewed by the Monitoring Committee indicated that mature female biomass had not increased in 2005 compared to 2003 estimates. As such, the Monitoring Committee could find no biological justification for deviating from the advice of the 37th SARC. The Monitoring Committee, therefore, recommended management measures consistent with achieving F=0.03 ($F_{rebuild}$). Specifically, the Monitoring Committee recommended that a commercial quota be set at 2 million lb (907 mt), a 50–percent reduction from the fishing year (FY) 2005 quota. Additionally, the Monitoring Committee recommended status quo possession limits of 600 lb (272 kg) in period 1 and 300 lb (136 kg) in period 2. The Monitoring Committee's recommended reduction in the commercial quota was based on the observation that in the last complete fishing year (FY2004), only about 1.5 million lb (680 mt) of spiny dogfish were landed even though the harvest cap was 4 million lb (1,814 mt). As such, the Monitoring Committee felt that 2 million lb (907 mt) represented a more realistic cap based on fishery behavior. The status quo possession limits recommended by the Monitoring Committee are intended to allow for the retention of small amounts of incidentally captured spiny dogfish, while not significantly affecting total removals (i.e., fishing mortality). Additionally, because the recovery trajectory is expected to be rather gradual under the most conservative management regime, the Committee recommended maintaining the quota and possession limits for the next three fishing years (FY2006–FY2008).

Joint Committee Recommendations

The Joint Committee met on October 4, 2005, and recommended that the Councils adopt a commercial quota of 4 million lb (1,814 mt) and possession limits of 600 lb (272 kg) for both quota periods. Additionally, the Joint Committee recommended that these measures apply only to the upcoming fishing year. The Joint Committee recommended increasing the possession limit above the status quo in order to accommodate the high volume demand required by the processing sector of the spiny dogfish fishery. The specification of the measures for FY2006 only was recommended because a benchmark assessment for spiny dogfish will be conducted in 2006, and results will be available to serve as the basis of subsequent specifications.

Council Recommendations

At its October 5, 2005, meeting the MAFMC endorsed the Monitoring Committee's recommendation for a 2 million lb (907 mt) incidental catch quota, but recommended a possession limit of 600 lb (272 kg) in both quota periods. Under the MAFMC recommendation, the specifications would be set for 3 years. At its November 16, 2005 meeting the NEFMC recommended an incidental catch quota of 4 million lb (1,814 mt), with a possession limit of 600 lb (272 kg) in both quota periods. Additionally, the NEFMC recommended that the management measures be applied only to the upcoming 2006 fishing year.

Alternatives Adopted by the Atlantic States Marine Fisheries Commission (ASFMC)

In October 2005, the ASMFC adopted specifications for the 2006/2007 fishing year only, setting a 4 million lb (1,814 mt) annual quota with possession limits of 600 lb (272 kg) in both quota periods.

Proposed Measures

NMFS reviewed both Councils' recommendations and proposes to maintain the annual dogfish quota at 4 million lb (1,814 mt), with a possession limit of 600 lb (272 kg), for both quota periods, for a period of 3 years. The quota would be allocated to the two semi-annual periods as follows: 2,316,000 lb (1.05 million kg) for quota period 1, and 1,684,000 lb (763,849 kg) for quota period 2.

The Council's analysis of the Council proposals concludes that the U.S. commercial spiny dogfish landings are controlled more by the possession limits than the overall quota. Maintaining the limits of 600 lb (272 kg) for both quota periods would allow for the retention of spiny dogfish caught incidentally while fishing for other species, but discourage directed fishing and therefore provide protection for mature female spiny dogfish, the portion of the stock that has been traditionally targeted in the directed fishery, and the stock component that is most in need of protection and rebuilding.

These proposed measures would also be consistent with the measures being implemented under the ASMFC's Interstate Fishery Management Plan in state waters, at least for FY 2006. This would have the benefit of establishing consistent management measures in Federal and state jurisdictions, and would simplify monitoring and enforcement. As demonstrated in previous years when measures differed in state and Federal waters, the benefits of a more restrictive quota in Federal waters would likely be slight because fishing would continue in state waters under the less restrictive ASMFC quota. In addition, discard mortality associated with continuing incidental catches would continue to occur after a quota period was closed, further undermining the conservation benefits of a more restrictive quota in Federal waters.

Therefore, setting the quota at 4 million lb (1,814 mt) would enable additional incidental catch to be landed. The Northeast Fisheries Science Center's review of the proposed measure concluded that the higher quota would not significantly alter the rebuilding period (no more than 1 or 2 years), though continued low recruitment could change this conclusion.

The NMFS proposal is identical to the NEFMC proposal, except for the duration of the specifications, with the NMFS proposal setting the specifications for three years, instead of one. There would be an administrative benefit to setting the specifications for a period of 3 years. Although in the intervening years, the Council and NMFS would be monitoring the status of the dogfish stock to determine if any changes to the specifications are warranted, the annual review under this proposal will be less administratively burdensome to the Councils and NMFS than the specifications process. If changes in stock status require a modification to the specifications, the Councils could initiate that process. Setting the specifications for 3 years also would give fishermen the opportunity to have a longer time horizon for business planning.

This rulemaking would change the language in the regulations that sets the possession limit for dogfish at 300 lb (136 kg) for period 2 of the fishery, to 600 lb (272 kg). This change is necessary in order to modify the possession limits through this action.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act, which describes the economic impacts this proposed rule, if adopted, would have on small entities. A copy of the IRFA can be obtained from the Council or NMFS (see **ADDRESSES**) or via the Internet at *http://www.nero.noaa.gov*. A summary of the analysis follows:

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and is not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

All of the potentially affected businesses are considered small entities under the standards described in NMFS guidelines because they have gross receipts that do not exceed $3.5 million annually. Information from the 2004 fishing year was used to evaluate impacts of this action, as that is the most recent year for which data are complete. According to NMFS permit file data, 2,911 vessels possessed Federal spiny dogfish permits in 2004, while 180 of these vessels contributed to overall landings.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Minimizing Significant Economic Impacts on Small Entities

The IRFA considered three alternatives. The action recommended in this proposed rule includes a commercial quota of 4 million lb (1,814 mt), and the possession limit at 600 lb (272 kg), for both quota periods, for a period of three years. Alternative 2 is the MAFMC proposal, which includes a 2 million lb (907 mt) quota with possession limits of 600 lb (272 kg) in both quota periods, for a period of three years. Alternative 3 is the NEFMC proposal, which includes a commercial quota of 4 million lb (1,814 mt), with possession limits of 600 lb (272 kg) in both quota periods, for a period of one year.

Based on NMFS dealer reports, spiny dogfish landings in fishing year 2004 were roughly 1.5 million lb (680 mt). These landings occurred at a time when the Federal and state management measures for spiny dogfish were identical, with a quota of 4 million lb (1,814 mt), and the possession limits for periods 1 and 2 set at 600 lb (272 kg) and 300 lb (136 kg), respectively. This shows that the U.S. commercial spiny dogfish landings are controlled more by the possession limits than the overall quota, unless the quota is set so low as to be constraining.

All three of the alternatives to the no-action alternative considered could lead to a slight increase in revenues to individual fishermen from the sale of dogfish. This is because all three of the alternatives would increase the possession limit in quota period 2 to 600 lb (272 kg). Setting the possession limit at 600 lb (272 kg) throughout the year, as opposed to 600 (272 kg) and 300 lb (136 kg) in periods 1 and 2 respectively, would allow fishermen to land higher amounts of dogfish in the second period as compared to what was landed in fishing year 2004. If the 1,124 fishing trips that landed spiny dogfish in period 2 of FY2004 had all landed 600 lb (272 kg), periodic landings would have increased from 320,000 lb (145 mt) to 560,000 lb (254 mt), for a net increase of 240,000 lb (109 mt), which, at the average price of 0.17 cents per pound of dogfish, equals roughly an addition $41,000 in net revenue.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 2, 2006.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out above, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.235, paragraph (b) is revised as follows:

§ 648.235 Possession and landing restrictions.

* * * * *

(b) *Quota Period 2.* From November 1 through April 30, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess up to 600 lb (272 kg) of spiny dogfish per trip; and

(2) Land only one trip of spiny dogfish per calendar day.

* * * * *

[FR Doc. E6–6931 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No. 060424108–6108–01; I.D. 040706A]

RIN 0648–AT43

Fisheries of the Exclusive Economic Zone Off Alaska; Cost Recovery Program for North Pacific Halibut, Sablefish, and Bering Sea and Aleutian Islands Crab Individual Fishing Quota Programs

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes an amendment to the Individual Fishing Quota (IFQ) Cost Recovery Program for the Halibut and Sablefish IFQ and the Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Programs. This action modifies the procedure NMFS uses to publish notification of adjustment of the IFQ fee percentage for the IFQ Cost Recovery Program in the Halibut and Sablefish IFQ and the Crab Rationalization Programs. This action is necessary to provide timely and efficient notice of fee obligations while maintaining compliance with the Administrative Procedure Act (APA). This action is intended to improve the fee collection methods required for all Alaska IFQ programs under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and is necessary to promote the objectives of the Magnuson-Stevens Act with respect to the IFQ fisheries managed by NMFS in the Alaska Region.

DATES: Written comments must be received no later than June 7, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- Fax: 907–586–7557.
- E-mail: *0648–AT43@noaa.gov*. Include in the subject line of the e-mail the following document identifier: IFQ Cost Recovery RIN 0648–AT43. E-mail comments, with or without attachments, are limited to five megabytes.
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of the Categorical Exclusion (CE), regulatory impact review (RIR), and regulatory flexibility certification prepared for this action are available from NMFS at the above address or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Bubba Cook, 907–586–7425 or *bubba.cook@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

NMFS, Alaska Region, administers the Halibut and Sablefish IFQ and the Crab Rationalization Programs in the North Pacific. These programs are limited access systems authorized by section 303(b) of the Magnuson-Stevens Act. The Magnuson-Stevens Act defines IFQ as a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. The Halibut and Sablefish Program and the Crab Rationalization Program meet this statutory definition of IFQ and are therefore subject to cost recovery fees under section 304(d)(2) of the Magnuson-Stevens Act.

In 1996, the Magnuson-Stevens Act was amended (by Public Law 104–297) to require, among other things, that the Secretary of Commerce ''collect a fee to recover the actual costs directly related to the management and enforcement of any . . . individual fishing quota program'' (section 304(d)(2)(A)). The upper limits on these fees, fee collection times, and fee deposit locations are specified by section 304(d)(2) of the Magnuson-Stevens Act. Section 303(d)(4) of the Magnuson-Stevens Act allows NMFS to reserve up to 25 percent of the fees collected for use in an IFQ loan program to aid in financing the purchase of IFQ or quota share (QS) by entry-level and small-vessel fishermen.

The Magnuson-Stevens Act specifies the following with respect to the imposition of cost recovery fees:

1. Fees must recover actual costs directly related to management and enforcement of the IFQ Program;

2. Fees must not exceed 3 percent of the ex-vessel value of fish harvested under any such program;

3. Fees are in addition to any other fees charged under the Magnuson-Stevens Act;

4. With the exception of money reserved for the Halibut and Sablefish IFQ and the Crab Rationalization loan program, fees must be deposited in the Limited Access System Administrative Fund (LASAF) in the U.S. Treasury; and

5. Fees must be collected during one of the following times: when landing; when filing a landing report; when selling the fish during a fishing season; or in the last quarter of the calendar year in which the fish were harvested.

The Halibut and Sablefish IFQ Program and the Crab Rationalization Program are the only IFQ fisheries off Alaska currently subject to the cost recovery requirements of the Magnuson-Stevens Act. Fishing under the Halibut and Sablefish IFQ Program began in March 1995 through regulations set forth at 50 CFR part 679. Fishing under the Crab Rationalization Program began in August 2005 through regulations set forth at 50 CFR part 680.

This action would only affect the methods by which NMFS calculates fee percentages and provides notice under the cost recovery provisions of the Halibut and Sablefish IFQ Program and Crab Rationalization Program. Specifically, this action proposes a structure for public notification of the fee percentage. Calculation of the fee percentage under this proposed action would become a ministerial duty conducted by NMFS. This proposed action would not affect the ex-vessel value determination under either program nor would it affect the current structure or administration of the standard prices calculated for the Halibut and Sablefish IFQ Program or the Catcher/Processor ex-vessel values calculated for the Crab Rationalization Program. However, NMFS would make minor changes to the current fee regulations to ensure full compliance with the APA (5 U.S.C. 501 *et seq.*, 701 *et seq.*) while improving administrative efficiency.

Halibut and Sablefish IFQ Cost Recovery

On March 20, 2000, NMFS published regulations (65 FR 14919) implementing the IFQ Cost Recovery Program for IFQ landings of halibut and sablefish (set forth at 50 CFR 679.45). Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for every pound of IFQ halibut and IFQ sablefish that is landed under his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee liability for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder also is responsible for submitting a fee liability payment to NMFS on or before the due date of January 31, following the year in which the IFQ landings were made. For each permit, the dollar amount of the fee due is determined by multiplying the annual IFQ fee percentage (3 percent or less) by the ex-vessel value of each IFQ landing. If the permit holder has more than one permit, the total amounts of each permit are added.

Section 304(d)(2)(B) of the Magnuson-Stevens Act sets a maximum fee of 3 percent of the ex-vessel value of fish harvested under an IFQ program. Current regulations allow NMFS to reduce the fee percentage if actual management and enforcement costs are recoverable through a lesser percentage.

NMFS will not know the actual annual costs of IFQ-related management and enforcement until after the end of each Federal fiscal year (September 30). If the management and enforcement costs total less than the 3 percent fee, NMFS will reduce the fee percentage for the new Federal fiscal year. Fishermen will not know at the time they sell their IFQ fish exactly what fee percentage will be applied to their IFQ landings made from February (season opening) through September (Federal fiscal year-end). Therefore, NMFS encourages IFQ permit holders to set aside the full 3 percent throughout the fishing year so a lump sum payment may be made by January 31 of the following calendar year. Early payments are allowed but do not relieve a permit holder of associated reporting requirements.

Crab Rationalization Cost Recovery

Section 313(j) of the Magnuson-Stevens Act provides supplementary authority to section 304(d)(2)(A) and additional detail for cost recovery provisions specific to the Crab Rationalization Program. As a quota program, the Crab Rationalization Program must follow the statutory provisions set forth by section 304(d) and section 313(j) of the Magnuson-Stevens Act.

Section 313(j) requires the Secretary to approve a cost recovery program for the Crab Rationalization Program, conducted in accordance with the existing Halibut and Sablefish IFQ cost recovery program. Similar to the Halibut and Sablefish IFQ cost recovery program, the Crab Rationalization cost recovery program allows for the collection of actual management and enforcement costs up to 3 percent of ex-vessel gross revenues and a loan program using 25 percent of the fees collected.

Section 313(j) includes specific cost recovery requirements to accommodate the crab processing industry and to address problems experienced under the Halibut and Sablefish IFQ cost recovery program. This section provides NMFS the authority to collect 133 percent of the actual costs of management and enforcement. By collecting 133 percent, 25 percent of that amount can be set aside for the IFQ loan program and the remaining 75 percent more fully reimburses the management and enforcement costs of the program. Additionally, section 313(j) requires cost recovery fees to be paid in equal shares by the harvesting and processing sectors. Catcher/Processors, a combination of both sectors, pay the full fee percentage.

NMFS developed the Crab Rationalization cost recovery program to conform with statutory requirements and to partially compensate the agency for the unique added costs of management and enforcement of the Crab Rationalization Program. Key provisions of the Crab Rationalization cost recovery program include: (1) a new definition and application of ''fee liability≥; (2) the establishment of a Registered Crab Receiver (RCR) permit system to streamline management and reporting; (3) the establishment of a ''crab fishing year'' for biological and administrative purposes; and (4) a new administrative process that requires the collection and submission of fees by RCRs rather than requiring separate billings to each person that receives a crab allocation (crab allocation holder). The crab allocations include IFQ, Crew IFQ, Individual Processing Quota (IPQ), Community Development Quota (CDQ), and the Adak community allocation.

In the crab rationalization fishery, a crab allocation holder generally incurs a cost recovery fee liability for every pound of crab landed. The RCR permit holder must collect any fee liability of the crab allocation holder landing crab. Additionally, the RCR permit holder must self-collect their own fee liability for all crab delivered to the RCR. The RCR permit holder is responsible for submitting this payment to NMFS on or before the due date of July 31, following the crab fishing year in which payment for the crab is made. The dollar amount of the fee due is determined by multiplying the fee percentage (not to exceed 3 percent) by the ex-vessel value of crab debited from the allocation. Specific details on the Crab Rationalization cost recovery program may be found in the implementing regulations for the Crab Rationalization Program set forth at 50 CFR 680.44, and published March 2, 2005, at 70 FR 10174.

The Crab Rationalization Program established a fee percentage calculation structure similar to the Halibut and Sablefish IFQ Program. To budget their costs, fishermen need to know the fee percentage that would apply to any crab deducted from a crab allocation in a crab fishing year at the time of sale. Based on preliminary calculations, however, NMFS determined that 3 percent of ex-vessel value will not be enough to cover the management and enforcement costs of the Program. Hence, NMFS began the cost recovery program using the maximum of 3 percent. NMFS will reduce the fee in subsequent seasons if calculated to be less than 3 percent.

Overpayment of Fees

In the Halibut and Sablefish IFQ and Crab Rationalization Programs, the fee percentage calculation adjusts for overpayment of the management and enforcement costs through a variable that considers the account balance in the LASAF account. Separate accounts are designated within the LASAF to ensure that funds from one program's cost recovery only pay for the costs directly related to the management and enforcement of that program, and not other IFQ programs.

The Proposed Change

This proposed action, if approved, would accomplish three goals:

1. Inform the public of the equation and all factors used to calculate the fee percentage, thereby allowing the public to comment on the methodology used to conduct the standard calculation of the fee percentage;

2. Calculation of direct program costs (DPC) through a new, independently-developed timekeeping system that automatically calculates management costs by individual employee; and

3. Publish an annual fee percentage by **Federal Register** notice, rather than by proposed and final rulemaking. This action would make the publication of the **Federal Register** notice announcing the fee percentage a ministerial duty performed by NMFS. The determination of the fee percentage would become simply an administrative calculation rather than the current and more complicated process of changing the default percentage.

Under the current cost recovery programs for the Halibut and Sablefish IFQ and the Crab Rationalization Programs, the fee percentage is calculated according to the following general equation:

[100 (DPC-AB) /V]/ (1–NPR)

''DPC'' represents the direct program costs for the applicable IFQ program for the previous fiscal year. ''AB'' is the end of the fiscal year LASAF account balance for the applicable IFQ program. ''V'' is the estimated ex-vessel value of the catch subject to the cost recovery fee liability for the current year. V is based on the value reported by an established port or port group as reported by the fishery participants, which is subsequently summed and applied by NMFS. ''NPR'' is the calculated nonpayment rate based on the previous year as determined by subtracting the percentage of IFQ holders subject to a fee liability who do not pay from the percentage of IFQ holders subject to a fee liability. NPR, AB, and V are variables taken directly from sources which NMFS has no ability to change.

This proposal would simplify the current calculation by eliminating or consolidating some variables. The NPR variable would be eliminated because it has had negligible effect on the overall calculation of the percentage since the inception of the program. The changes proposed by this action primarily affect the DPC variable. First, as part of this action, the AB variable would be automatically incorporated into the DPC variable rather than treated separately. Second, NMFS is adopting a new time and attendance management system that will more efficiently and accurately track individual management responsibilities. The new management system will remove all NMFS discretion in determining the DPC for any IFQ program. Therefore, in conjunction with the calculation of other variables used to calculate the fee percentage, the determination of DPC will be determined by formula. NMFS would then apply the automatically calculated DPC to the fee percentage formula to achieve the fee percentage for the prescribed fee period.

DPC Calculation

Prior to this proposed action, the DPC calculation became an automated process managed by the Operations, Management, and Information (OMI) Division, Alaska Region, NMFS. The new process receives time allocation information from all personnel who engage in management or enforcement associated with any IFQ program. This information also is distinguished according to the specific IFQ program (i.e., Crab Rationalization or Halibut and Sablefish).

For instance, a NMFS employee working on a regulation for the Halibut and Sablefish IFQ Program would record the amount of time he or she spends on that IFQ program in a special timekeeping program by 15–minute intervals over each two-week pay period. The timekeeping program would document and sum the specific time expended by that NMFS employee on work directly related to the management of the Halibut and Sablefish IFQ Program. The time expended by that NMFS employee would be automatically multiplied by his or her hourly rate-of-pay to achieve the management costs of that individual for the Halibut and Sablefish IFQ Program. The NMFS employee's management costs then would be automatically added with other employee's costs and added to any other documented costs incurred by NMFS (e.g., printing, training, and supply costs). Enforcement costs would continue to be calculated based on agents' salaries as dedicated full time to IFQ enforcement plus any other documented costs incurred by NMFS Enforcement (e.g., training, equipment, and travel costs). OMI would then add all individual DPCs to achieve the DPC variable.

This action also proposes to revise existing regulatory text to clarify the public's obligations under the regulations and to clarify how the fee percentage will be calculated by substituting terms such as ''shall'' and ''must'' regarding NMFS duties in places where ''would,'' ''will,'' or ''may'' were previously used.

APA Compliance

The APA requires Federal agencies to advise the public through a notice in the **Federal Register** of the terms or substance of a proposed substantive rule and provide the public a period to comment. This is the ''notice and comment'' requirement of the APA. The requirement is designed to give interested persons, through written submissions or oral presentations, an opportunity to participate in the rulemaking process. Generally, the procedural safeguards of the APA help ensure that government agencies are accountable to the public and their decisions are reasoned. This proposed rule would provide substantive elements that are subject to the APA's notice and comment procedures and is intended to provide the public with a meaningful opportunity to comment on the proposed provisions.

If this proposal is implemented, the fee percentage calculation would become a simple administrative calculation subject to a statutory maximum fee cap (3 percent) rather than a maximum fee value subject to a reduction. As a result of this regulatory change, subsequent administrative calculations of the fee percentage would be published in the **Federal Register** as a notice because they would have no substantive effect beyond the requirements of the existing regulations and would only serve to inform the public of their preexisting duty to pay fees. This change in methodology would make the cost recovery fee calculation process more compliant with the APA.

Classification

NMFS has determined that the proposed rule is consistent with the associated FMPs and preliminarily determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a Regulatory Impact Review (RIR) to assess all costs and benefits of available regulatory alternatives. The North Pacific Fishery Management Council considered all quantitative and qualitative measures and chose a preferred alternative based on those measures that maximize net benefits to the affected public.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Section 304(d)(2) of the Magnuson-Stevens Act directs the Secretary of Commerce collect a fee to recover the actual costs directly related to the management and enforcement of any individual fishing quota program and that such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under the program. The proposed rule would only explain the process for notifying the public of fee obligations and would not substantively change the amount of fees owed by any regulated entities. The proposed rule would clarify the regulations governing the methods NMFS uses to determine the appropriate level of cost recovery fees to collect. The proposed rule will not affect the definitions of the costs that NMFS is required to recover under the Magnuson-Stevens Act or the size or distribution of the cost recovery fees that fishermen are expected to pay. Additionally, the proposed rule will not directly regulate, impose, or change any obligations of entities, and will thus not directly regulate any small entities. The proposed regulatory change is not expected to change the size or distribution of the cost recovery fees imposed on fishermen and should not impose any economic impact on small entities.

The two criteria recommended to determine significant economic impact are the disproportionality and profitability of the action. The proposed action would not place a substantial number of small entities at a disadvantage relative to large entities, and it does not reduce the profit for small entities. No entities appear to be directly regulated by this action. The economic analysis in the RIR describes the proposed rule and its operation in detail. It is apparent from the description of the rule that it would not have significant economic impacts on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and has not been prepared.

According to NOAA Administrative Order (NAO) 216–6, including the criteria used to determine significance, this rule would not have a significant effect, individually or cumulatively, on the human environment beyond those effects identified in previous NEPA analyses. An Environmental Assessment (EA) was prepared for the final rule implementing the original Halibut and Sablefish IFQ Cost Recovery Program regulations (65 FR 14919, March 15, 2000) and an Environmental Impact Statement (EIS) was prepared for the final rule implementing the Crab Rationalization Program (70 FR 10174, March 2, 2005). These NEPA documents analyzed all potential and cumulative environmental impacts of the cost recovery systems. The scope of these analyses includes the potential environmental impacts of this proposed rule. Based on the nature of the proposed rule and the previous environmental analyses, this proposed rule is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement, in accordance with Section 5.05b of NAO 216–6. Copies of the EA for the original Halibut and Sablefish IFQ Cost Recovery Program, the EIS for the original Crab Rationalization Program, and the categorical exclusion for this action are available from NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Parts 679 and 680

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: May 2, 2006.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 679 and 680 are proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.45 paragraph (d) is revised to read as follows:

§ 679.45 IFQ cost recovery program.

* * * * *

(d) *IFQ fee percentage*—(1) *Established percentage.* The annual IFQ fee percentage is the amount as determined by the factors and methodology described in paragraph (d)(2) of this section. This amount will be announced by publication in the **Federal Register** in accordance with paragraph (d)(3) of this section. This amount must not exceed 3 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish the fee percentage according to the following factors and methodology:

(i) *Factors.* NMFS must use the following factors to determine the fee percentage:

(A) The catch to which the IFQ fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management and enforcement of the IFQ program.

(ii) *Methodology.* NMFS must use the following equation to determine the fee percentage:

100 (DPC / V)

where:

''DPC'' is the direct program costs for the IFQ fishery for the previous fiscal year, and ''V'' is the ex-vessel value of the catch subject to the IFQ fee for the current year.

(3) *Publication*—(i) *General.* During or before the last quarter of each year, NMFS shall publish the IFQ fee percentage in the **Federal Register**. NMFS shall base any calculations on the factors and methodology in paragraph (d)(2) of this section.

(ii) *Effective period.* The calculated IFQ fee percentage shall remain in effect through the end of the calendar year in which it was determined.

(4) *Applicable percentage.* The IFQ permit holder must use the IFQ fee percentage in effect at the time an IFQ landing is made to calculate his or her fee liability for such landed IFQ pounds. The IFQ permit holder must use the IFQ percentage in effect at the time an IFQ retro-payment is received by the IFQ permit holder to calculate his or her IFQ fee liability for the IFQ retro-payment.

* * * * *

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

3. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862.

4. In § 680.44 paragraphs (a)(2)(iii) and (c)(1) through (3) are revised; paragraph (c)(4) is removed; and paragraph (c)(5) is redesignated as paragraph (c)(4) to read as follows:

§ 680.44 Cost recovery.

(a) * * *

(2) * * *

(iii) NMFS will provide a summary to all RCR permit holders during the last quarter of the crab fishing year. The summary will explain the fee liability determination including the current fee percentage, details of raw crab pounds debited from CR allocations by permit, port or port-group, species, date, and prices.

* * * * *

(c) * * *

(1) *Established percentage.* The crab fee percentage is the amount as determined by the factors and methodology described in paragraph (c)(2) of this section. This amount will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section. This amount must not exceed 3 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(i) The calculated crab fee percentage will be divided equally between the harvesting and processing sectors.

(ii) Catcher/Processors must pay the full crab fee percentage determined by the fee percentage calculation for all CR crab debited from a CR allocation.

(2) *Calculating fee percentage value.* Each year NMFS shall calculate and publish the fee percentage according to the following factors and methodology:

(i) *Factors.* NMFS must use the following factors to determine the fee percentage:

(A) The catch to which the crab cost recovery fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the management and enforcement of the Crab Rationalization Program.

(ii) *Methodology.* NMFS must use the following equations to determine the fee percentage:

Harvesting and Processing Sectors: [100 (DPC/ V)] 0.5

Catcher/Processors: 100 (DPC /V)

Where:

''DPC'' is the direct program costs for the Crab Rationalization Program for the previous fiscal year, and

''V'' is the ex-vessel value of the catch subject to the crab cost recovery fee liability for the current year.

(3) *Publication*—(i) *General.* During the first quarter of each crab fishing year, NMFS shall calculate the crab fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* The calculated IFQ fee percentage remains in effect through the end of the crab fishing year in which it was determined.

* * * * *

[FR Doc. E6–6925 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 71, No. 88
Monday, May 8, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before July 7, 2006.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0566.
Form No.: AID 200–1.
Title: PVO Classification Form.
Type of Review: Reinstatement.
Purpose: The U.S. Agency for International Development (USAID) requires all private voluntary organizations (PVOs) that wish to be eligible to compete for most forms of foreign economic assistance administered by USAID to register with the Agency. Registration provides a resource for USAID officials to access financial and program information on PVOs. The PVO Registry is a central clearinghouse for information on PVOs working in countries where elsewhere the U.S. Government would not have knowledge of the activities.

To confirm the data is collected in a formalized and consistent manner, USAID has developed the Classification Form's list of sectors and countries that will show where qualified and interested PVOs registered with USAID are working.

Annual Reporting Burden:
Respondents: 594.
Total annual responses: 594.
Total annual hours requested: 132 hours.

Dated: April 25, 2006.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 06–4274 Filed 5–5–06; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0045]

Availability of an Evaluation of Asymptomatic Citrus Fruit as a Pathway for the Introduction of Citrus Canker Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability; extension of comment period.

SUMMARY: We are extending the comment period for our scientific evaluation titled, ''Evaluation of asymptomatic citrus fruit (*Citrus* spp.) as a pathway for the introduction of citrus canker disease (*Xanthomonas axonopodis* pv. *citri*).'' This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before July 5, 2006.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0045 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to APHIS–2006–0045, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to APHIS–2006–0045.

Reading Room: You may read any comments that we receive on the evaluation in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Griffin, Director, Plant Epidemiology and Risk Analysis Laboratory, Center for Plant Health Science and Technology, PPQ, APHIS, 1730 Varsity Drive, Raleigh, NC 27606–5202; (919) 855–7512.

SUPPLEMENTARY INFORMATION: On April 6, 2006, we published in the **Federal Register** (66 FR 17434–17435, Docket No. APHIS–2006–0045) a notice of availability for a scientific evaluation titled, ''Evaluation of asymptomatic citrus fruit (*Citrus* spp.) as a pathway for the introduction of citrus canker disease (*Xanthomonas axonopodis* pv. *citri*).''

Comments on the scientific evaluation were required to be received on or before June 5, 2006. We are extending the comment period on Docket No.

APHIS–2006–0045 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 2nd day of May 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–6907 Filed 5–5–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Minneapolis, Minnesota. The purpose of the meeting is to discuss emerging issues in urban and community forestry.

DATES: The meeting will be held June 13–15, 2006.

ADDRESSES: The meeting will be held at the Crowne Plaza Hotel, 618 Second Avenue South, Minneapolis, MN 55402. Individuals who wish to speak at the meeting or to propose agenda items must send their names and proposals to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, P.O. Box 1003, Sugarloaf, CA 92386–1003. Individuals may fax their names and proposed agenda items to (909) 585–9527.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Urban and Community Forestry Staff, (909) 585–9268, or via e-mail at *sdelvillar@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided.

Dated: April 24, 2006.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. E6–6871 Filed 5–5–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA Forest Service.

ACTION: Action of meeting.

SUMMARY: *Change in Location of May Meeting*—The Hood/Willamette Resource Advisory Committee (RAC) will meet on Friday, May 26, 2006. The meeting is scheduled to begin at 10:30 a.m., and will conclude at approximately 4 p.m. The meeting will be held at Oregon Department of Forestry Veneta Office; 87950 Territorial Road, Veneta, Oregon; (541) 935–2283. The tentative agenda includes: (1) Election of chairperson; (2) Report on National Forest Counties and Schools Coalition Conference; (3) Tour of the Lane County Work Camp; (4) Decision on overhead rate for 2007 projects; (5) Presentation of 2007 Projects; and (6) Public Forum.

The Public Forum is tentatively scheduled to begin at 2 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the May 26th meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: May 1, 2006.

Dallas J. Emch,

Forest Supervisor.

[FR Doc. 06–4277 Filed 5–5–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Commencement of 90-Day Comment Period on the Proposed Land Management Plans for the Bitterroot, Flathead and Lolo National Forests

AGENCY: Forest Service, USDA.

SUMMARY: Proposed Land Management Plans for the Bitterroot, Flathead and Lolo National Forests are now available for public comment during a 90-day period that begins on the date of publication of this notice in the following newspapers of record: For the Bitterroot Forest, The Ravalli Republic; for the Flathead Forest, The Daily Interlake; and for the Lolo Forest, The Missoulian.

ADDRESSES: Comments should be sent to: Proposed Land Management Plan, Bitterroot National Forest, 1801 North 1st St., Hamilton, MT 59840. Comments by e-mail should be sent to: *wmpz@fs.fed.us.*

DATES: Submit comments during the 90-day period that begins on the date of publication of this notice in the following newspapers of record: For the Bitterroot Forest, The Ravalli Republic; for the Flathead Forest, The Daily Interlake; and for the Lolo Forest, The Missoulian.

FOR FURTHER INFORMATION CONTACT: Claudia Narcisco, 406–329–3802.

SUPPLEMENTARY INFORMATION: Pursuant to 36 CFR 219.9(b)(2), the Bitterroot, Flathead and Lolo National Forests are commencing the comment period on their Proposed Forest Land Management Plans. The Plans are available for viewing and downloading at the Web site: *http://www.fs.fed.us/r1/wmpz.* CD (Compact Disk) copies of the Plans will be mailed to persons on our current mailing list and are available to others on request. Plans are also available for viewing at Supervisors Offices and Ranger Stations on the Bitterroot, Flathead and Lolo National Forests. Supporting documentation of analysis procedures and findings will be posted on the Web site and is available upon request.

Comments should be in writing and should meet the following requirements:

1. A statement that the comment is filed during the 90-day comment period, in response to the Western Montana Zone Proposed Forest Land Management Plans.

2. Identification of the specific Proposed Plan or Plans (Bitterroot, Lolo, Flathead) that your comment is addressing.

3. A clear statement of your comment, including reasons, recommendations and supporting information.

Additional guidelines for preparing comments are included with each Proposed Plan.

Scheduled meetings and details of other public involvement opportunities will be posted on the Western Montana Planning zone Web site: *http://www.fs.fed.us/r1/wmpz.*

The opportunity to object to the Final Plan will be during a 30-day objection period before Plan approval (36 CFR 219.13(a)). Any person or organization,

other than a federal agency, who participated in the planning process through the submission of written comments, may object to a plan.

Please note that all comments, names, and addresses become part of the public record and are subject to the Freedom of Information Act, except for proprietary documents and information.

Dated: April 28, 2006.

David T. Bull,

Forest Supervisor, Bitterroot National Forest.

Catherine Barbouletos,

Forest Supervisor, Flathead National Forest.

Deborah L.R. Austin,

Forest Supervisor, Lolo National Forest.

[FR Doc. 06–4285 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–11–M

ANTITRUST MODERNIZATION COMMISSION

Public Meeting

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public meeting.

SUMMARY: The Antitrust Modernization Commission will hold a public meeting on May 23, 2006. The purpose of the meeting is for the Antitrust Modernization Commission to deliberate on possible recommendations regarding the antitrust laws to Congress and the President.

DATES: May 23, 2006, 9:30 a.m. to approximately 5:30 p.m. Interested members of the public may attend. Advanced registration is required.

ADDRESSES: Morgan Lewis, Main Conference Room, 1111 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov*. Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

For Registration: For building security purposes, advanced registration is required. If you wish to attend the Commission meeting, please provide your name by e-mail to *meetings@amc.gov* or by calling the Commission offices at (202) 233–0701. Please register by 12 noon on May 22, 2006.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Antitrust Modernization Commission to deliberate on possible recommendations to Congress and the President regarding the antitrust laws. The Commission will deliberate on recommendations regarding antitrust enforcement institutions, the Robinson-Patman Act, and issues relating to the new economy. The Commission will conduct other additional business as necessary. Materials relating to the meeting will be made available on the Commission's Web site (*http://www.amc.gov*) in advance of the meeting.

The AMC has called this meeting pursuant to its authorizing statute and the Federal Advisory Committee Act. Antitrust Modernization Commission Act of 2002, Public Law 107–273, section 11054(f), 116 Stat. 1758, 1857; Federal Advisory Committee Act, 5 U.S.C. App., section 10(a)(2); 41 CFR 102–3.150 (2005).

Dated: May 3, 2006.

By direction of Deborah A. Garza, Chair of the Antitrust Modernization Commission.

Approved by Designated Federal Officer.

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. E6–6935 Filed 5–5–06; 8:45 am]

BILLING CODE 6820–YH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–899]

Notice of Correction to Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Michael Holton or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–1324 and (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Correction

On March 30, 2006, the Department of Commerce (''the Department'') published its final determination of sales at less than fair value in the antidumping investigation of artist canvas from the People's Republic of China. See Notice of Final Determination of Sales at Less Than Fair Value; Certain Artist Canvas from the People's Republic of China, 71 FR 16116 (March 30, 2006.) Subsequent to the publication of the final determination, we identified a clerical error in the **Federal Register**. One of the exporter and producer names in the Final Determination Margins chart is incorrect. The correct name of the exporter and producer should read as follows:

Final Determination Margin

ARTIST CANVAS FROM THE PRC - WEIGHTED–AVERAGE DUMPING MARGINS

Exporter	Producer	Weighted–average deposit rate
Jiangsu By–products	Su Yang Yinying Stationery and Sports Products Co. Ltd. Corp.	77.90

This notice is to serve as a correction to the producer and exporter name. The Department's findings in the final determination are correct and remain unchanged.

This correction is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: May 2, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–6984 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004/2005 New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is currently conducting the 2004/2005 administrative review and the 2004/2005 new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC''). We preliminarily determine that sales have been made below normal value (''NV'') with respect to certain exporters who participated fully and are entitled to a separate rate in the administrative review. We also have preliminarily determined that the single sale made by the new shipper, Shanxi Zhongding Auto Parts Co., Ltd.(''SZAP''), was not *bona fide*. If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the period of review (''POR'') for which the importer–specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Erin C. Begnal or Christopher D. Riker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1442 or (202) 482–3441, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1999, the Department published in the **Federal Register** the antidumping duty order on brake rotors from the PRC. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997).

On March 23, 2005, SZAP, in accordance with 19 CFR 351.214(c), requested a new shipper review of the antidumping duty order on brake rotors from the PRC, which has an April anniversary month. In response to the Department's April 14, 2005, request for information, SZAP provided supplemental information on April 29, 2005. Furthermore, on April 29, 2005, SZAP agreed to waive the time limits of its new shipper review of brake rotors from the PRC, pursuant to 19 CFR 351.214(j)(3), and agreed to have its review conducted concurrently with the 2004/2005 administrative review. On May 27, 2005, the Department initiated a new shipper review of SZAP covering the period April 1, 2004, through March 31, 2005. *See Brake Rotors From the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 70 FR 30696 (May 27, 2005).

On April 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on brake rotors from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 16799 (April 1, 2005).

The Department received timely requests from Laizhou Auto Brake Equipment Company (''LABEC''); Yantai Winhere Auto–Part Manufacturing Co., Ltd. (''Winhere''); Longkou Haimeng Machinery Co., Ltd. (''Haimeng''); Laizhou Hongda Auto Replacement Parts Co., Ltd. (''Hongda''); Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa''); Qingdao Meita Automotive Industry Co., Ltd. (''Meita''); and Shandong Huanri Group General Co., Laizhou Huanri Automobile Parts Co., Ltd., and Shandong Huanri Group Co., Ltd. (Collectively, ''Huanri''), on April 27, 2005, for an administrative review of this antidumping duty order in accordance with 19 CFR 351.213. The Department also received a timely request for an administrative review of 26 companies (or producer/exporter combinations),[1] from the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers (''petitioners''), on April 28, 2005.

On May 16, 2005, the Department received from CBP copies of customs documents pertaining to the entry of brake rotors from the PRC exported by SZAP during the POR. *See* Memorandum to the File through John Conniff, Acting Program Manager, AD/CVD Operations, Office 9, Import Administration, from Edward Jacobson, Analyst, AD/CVD Operations, Office 9, Import Administration, regarding *13th Antidumping New Shipper Review of Brake Rotors from the People's Republic of China* (July 13, 2005).

On May 23, 2005, the Department initiated an administrative review of the antidumping duty order on brake rotors from the PRC. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 30694 (May 27, 2005) (''*Initiation Notice*''). The review was initiated for 27 individually named firms, with a POR of April 1, 2004, through March 31, 2005.[2]

[1] The names of these exporters are as follows: (1) China National Industrial Machinery Import & Export Corporation (''CNIM''); (2) Laizhou Automobile Brake Equipment Factory; (3) Qingdao Gren Co. (''Gren''); (4) Winhere; (5) Haimeng; (6) Zibo Luzhou Automobile Parts Co., Ltd. (''ZLAP''); (7) Hongda; (8) Hongfa; (9) Meita; (10) Shandong Huanri (Group) General Company; (11) Longkou TLC Machinery Co., Ltd. (''LKTLC''); (12) Zibo Golden Harvest Machinery Limited Company (''ZGOLD''); (13) Shanxi Fengkun Metallurgical Limited Company (''Fengkun''); (14) Xianghe Xumingyuan Auto Parts Co. (''Xumingyuan''); (15) Xiangfen Hengtai Brake System Co., Ltd. (''Hengtai''); (16) Laizhou City Luqi Machinery Co., Ltd. (''Luqi''); (17) Qingdao Rotec Auto Parts Co., Ltd. (''Rotec''); (18) Shenyang Yinghao Machinery Co. (''Yinghao''); (19) Longkou Jinzheng Maxhinery (sic) Co. (''Jinzheng''); (20) Dixion Brake System (Longkou) Ltd. (''Dixion''); (21) Laizhou Wally Automobile Co., Ltd. (''Wally''); (22) China National Machinery & Equipment Import & Export (Xianjiang) Corporation and manufactured by any company other than Zibo Botai Manufacturing Co., Ltd. (''Xianjiang/Other than Zibo''); (23) National Automotive Industry Import & Export Corporation or China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Shandong Laizhou Capco Industry (''CNAIIEC/other than Capco''); (24) Shandong Laizhou Capco Industry, and manufactured by any company other than Shandong Laizhou Capco Industry (''Capco/other than Capco''); (25) Laizhou Luyuan Automobile Fittings Co., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co., or Shenyang Honbase Machinery Co., Ltd. (''LLAFC/other than LLAFC or Honbase''); and (26) Shenyang Honbase Machinery Co., Ltd., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co., or Shenyang Honbase Machinery Co., Ltda. (sic) (''Honbase/other than Honbase or LLAFC'').

[2] Note: the Department inadvertently separately initiated on Laizhou Huanri Automobile Parts Co., Ltd. and Shangdong Huanri Group General Co.

Of the 27 named firms for which the Department initiated an administrative review, 18 firms indicated they had shipments of subject merchandise during the POR that were subject to review.[3] Two firms, Rotec and Xianjiang/Other than Zibo, did not respond to the Department's request for information relating to whether or not the firm had shipments subject to the review. *See* Memorandum to the File from Edward Jacobson, Analyst, AD/CVD Operations, Office 9, Import Adminisitration, regarding confirmation of delivery of Department questionnaire to Qingdao Rotec Auto Parts Co. Ltd. (June 30, 2005); *see also* Letter to China National Industrial Machinery Import & Export Corporation from Carrie Blozy, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding Quantity and Value Response (July 13, 2004). Furthermore, two of the 18 firms, Dixion and Wally, were also participating in ongoing new shipper reviews. *See Brake Rotors From the People's Republic of China: Final Results of the Twelfth New Shipper Review*, 71 FR 4112 (January 25, 2006). After consultations, these two companies agreed to a rescission of their administrative reviews in accordance with 19 CFR 351.214(j). *See* Memorandum to the File from Carrie Blozy, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding the *8th Administrative Review of Brake Rotors from the People's Republic of China*, (July 28, 2005). As a result, this administrative review covers 16 participating firms.

Due to the large number of participating firms subject to this administrative review, and the Department's experience regarding the administrative burden to review each company for which a request was made, the Department exercised its authority to limit the number of respondents selected for individual review by sampling. On June 7, 2005, the Department issued letters to all firms named in the *Initiation Notice* requesting information on the quantity and value of sales of subject merchandise to the United States (Q&V) during the POR. *See* letter to ''All Interested Parties'' from James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration (June 7, 2005). Subsequent letters were sent to potential respondents and the petitioners to clarify Q&V information covered by this administrative review on July 7, July 8, July 11, and September 15, 2005.

On October 14, 2005, the Department determined that a ''probability–proportional-to–size'' sampling methodology was the most appropriate approach to limit the selection of respondents in this review. *See* Letter to ''All Interested Parties'' from James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration (October 14, 2005). Further, the Department invited comments on the economic, legal, and administrative considerations of the proposed sampling method, pursuant to section 777A(b) of the Tariff Act of 1930, as amended (''the Act''). On October 24, 2005, the Department received comments on the proposed sampling methodology from the petitioners and from LABEC, Winhere, Haimeng, Hongda, Hongfa, Meita, Luqi and Huanri.

The Department conducted the sampling on November 16, 2005. *See* Section 777A(c)(2) of the Act; *see also* Memorandum to the File through Christopher Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, from Erin Begnal, Analyst, AD/CVD Operations, Office 9, Import Administration, regarding sampling procedure results in the *Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China* (November 16, 2005) (''Sampling Procedure Results Memo''). The following respondents were selected for individual review pursuant to the sampling procedure: Meita, Winhere, Hengtai, Hongfa, and Haimeng. *See* Sampling Procedure Results Memo; *see also* Memorandum to the File through Christopher Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, from Erin Begnal, Analyst, AD/CVD Operations, Office 9, Import Administration, regarding sampling procedure disclosure for the *Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China* (November 16, 2005); Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, regarding *Selection of Respondents for the 2004/2005 Antidumping Administrative Review of Brake Rotors from the People's Republic of China* (December 19, 2005) (where the Department also addressed certain comments received on the Department's sampling methodology).

On December 20, 2005, the Department published in the **Federal Register** a notice of postponement of the preliminary results until no later than May 1, 2006. *See Brake Rotors from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review*, 70 FR 75448 (December 20, 2005).

Respondents

On November 23, 2005, we issued antidumping duty questionnaires to Haimeng, Hengtai, Hongfa, Meita, and Winhere. On November 28, 2005, the Department sent a description of the products under review to the five aforementioned companies. *See* letters to Haimeng, Hengtai, Hongfa, Meita, and Winhere from Christopher Riker, Program Manager, China/NME Group, Office 9, Import Administration, regarding *Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China (04/01/04–03/31/05)*, (November 28, 2005).

On December 16, 2005, the Department invited parties to submit comments on the selection of a surrogate country and to submit publicly available information for purposes of calculating normal value. *See* letter to ''All Interested Parties'' from Christopher D. Riker, Program Manager, AD/CVD Operations 9, Import Administration, regarding *Administrative Review and New Shipper Review of Brake Rotors from the People's Republic of China: Office of Policy list of Economically Comparable Countries and Schedule for Comments on Surrogate Country* (December 16, 2005).

On December 21, 2005, we received section A responses from Haimeng, Hengtai, Hongfa, Meita, and Winhere. On December 30, 2005, the Department issued supplemental section A questionnaires to Haimeng, Hengtai, Hongfa, Meita, and Winhere. On January 6, 2006, we received sections C and D responses from Haimeng, Hongfa, Meita, and Winhere, and on January 10, 2006, we received the sections C and D responses from Hengtai. On January 11, 2006, we received comments from petitioners on the reconciliation responses submitted by Winhere, Meita and Haimeng.

On January 17, 2006, Hengtai submitted its response to the Department's supplemental section A questionnaire. On January 19, 2006, the Department issued a supplemental sections C and D questionnaire to Hongfa, and issued supplemental sections C and D questionnaires to Haimeng, Hengtai, Meita, and Winhere

[3] The firms which indicated they did not have shipments subject to the review were: Jinzheng (June 21, 2005), Xumingyuan (June 24, 2005), CNAIIEC/other than Capco (July 6, 2005), Capco/other than Capco (July 6, 2005), LLAFC/other than LLAFC or Honbase (July 6, 2005), and Honbase/other than Honbase or LLAFC (July 6, 2005).

the following day (*i.e.*, January 20, 2006). On January 24, 2006, we received supplemental section A responses from Haimeng, Hongfa, Meita and Winhere, and on February 13, 2006, we received supplemental sections C and D responses from Haimeng, Hengtai, Hongfa, Meita and Winhere.

The Department has a rebuttable presumption that a single dumping margin is appropriate for all exporters in an NME country. However, the Department considers information submitted in response to Departmental questionnaires in order to determine whether or not respondents qualify for a separate rate. On January 10, 2006, the Department issued section A questionnaires to CNIM, LABEC, Gren, ZLAP, Hongda, Huanri, Longkou TLC, ZGOLD, Fengkun, Luqi and Yinghao in order to determine whether or not they qualify for a separate rate.

On January 30, 2006, we received section A responses from ZGOLD and ZLAP. On January 31, 2006, we received a section A response from Longkou TLC. On February 3, 2006, we received section A responses from Hongda, Huanri, LABEC, and Luqi. On February 8, 2006, we received section A responses from CNIM, GREN, Fengkun and Yinghao. On February 10, 2006, the Department issued a supplemental section A questionnaire to Huanri. On February 13, 2006, Hongda provided a CBP entry summary that was not included in its February 3, 2006, section A response. In addition to the supplemental questionnaire issued to Huanri, we sent supplemental section A questionnaires to LABEC, Luqi, ZGOLD and ZLAP on February 15, 2006; Longkou TLC and Yinghao on February 22, 2006; CNIM on February 23, 2006; Fengkun and GREN on March 2, 2006; and Hongda on March 16, 2006.

On February 22, 2006, we received a response to our supplemental section A questionnaire from Huanri. On February 27, 2006, we received responses to our supplemental section A questionnaires from LABEC, Luqi, ZGOLD, and ZLAP. On March 2, 2006, we received a supplemental section A response from Longkou TLC. On March 6, 2006, we received supplemental section A responses from CNIM and Yinghao. We also received supplemental section A responses from GREN and Fengkun on March 14, 2006 and from Hongda on March 28, 2006.

On February 14, 2006, the Department issued verification outlines to Meita, Winhere and Huanri. The Department conducted verification of the responses of Winhere from February 27 through March 1, 2006 and Meita from March 2 through 4, 2006. Huanri cancelled verification one day before it was set to commence. *See* letter from Huanri regarding cancellation of verification (March 8, 2006). On March 3, 2006, the Department issued a verification outline to Hongfa; the Department issued a verification outline to SZAP on March 7, 2006. On March 6, 2006, Meita submitted minor corrections presented at verification. The Department conducted verification of the responses of Hongfa from March 13 through 15, 2006, and SZAP from March 22 through 24, 2006.

On March 16, 2006, petitioners submitted publicly available information for use in the calculation of normal value in the administrative and new shipper reviews. Also, on March 16, 2006, Haimeng, Hongfa, Meita, Winhere, LABEC, Hongda, and Luqi submitted publicly available information for use in the calculation of normal value in the administrative review. On March 27, 2006, petitioners submitted rebuttal comments to the aforementioned respondents' March 16, 2006, filing. On April 13, 2006, Haimeng, Hongfa, Meita, Winhere, LABEC, Hongda, and Luqi submitted additional publicly available information for consideration in valuing brokerage and handling.

On April 20, 2006, the Department released the verification reports for Hongfa, Meita and Winhere. *See Verification of the Sales and Factors Response of Qingdao Meita Automotive Industry Co., Ltd. in the Antidumping Administrative Review of Brake Rotors from the People's Republic of China* (April 20, 2006) (''Meita Verification Report''); *Verification of the Sales and Factors Response of Yantai Winhere Auto–Part Manufacturing Co., Ltd. in the Antidumping Administrative Review of Brake Rotors from the People's Republic of China* (April 20, 2006) (''Winhere Verification Report''); *Verification of the Sales and Factors Response of Hongfa Machinery (Dalian) Co., Ltd. in the Antidumping Administrative Review of Brake Rotors from the People's Republic of China* (April 20, 2006) (''Hongfa Verification Report''). On April 26, 2006, the Department released the verification report for SZAP. *See Verification of the Sales and Factors Response of Shanxi Zhongding Auto Parts Co., Ltd. in the New Shipper Review of Brake Rotors from the People's Republic of China* (April 26, 2006) (''SZAP Verification Report'').

Surrogate Country and Factors

As previously stated, on December 16, 2005, the Department provided parties an opportunity to submit publicly available information (''PAI'') on surrogate countries and values for consideration in these preliminary results. As previously indicated, the Department received comments on March 16, 2006, March 27, 2006, and April 13, 2006.

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Verification

On August 31, 2005, petitioners requested that the Department conduct verification of the data submitted by all of the firms for which the Department initiated an administrative review, as

well as SZAP. However, due to the Department's resource constraints in conducting these reviews, we only selected Hongfa, Huanri, Meita, Winhere and SZAP for verification pursuant to Section 782(i)(2) of the Act and 19 CFR 351.307. As noted above, Huanri cancelled its verification a day prior to its scheduled commencement. *See* letter from Huanri regarding cancellation of verification (March 8, 2006).

For the companies we did verify, we used standard verification procedures, including on–site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company. For a further discussion, *see* the Meita Verification Report, the Winhere Verification Report, the Hongfa Verification Report, and the SZAP Verification Report.

Preliminary Partial Rescission of 2004/2005 Administrative Review

With respect to Jinzheng, Xumingyuan, CNAIIEC/other than Capco, Capco/other than Capco, LLAFC/other than LLAFC or Honbase, and Honbase/other than Honbase or LLAFC, each has informed the Department that it did not export the subject merchandise to the United States during the POR in the combinations referenced above, where applicable. Specifically, (1) neither Jinzheng nor Xumingyuan exported subject merchandise to the United States during the POR; (2) CNAIIEC did not export brake rotors to the United States that were manufactured by producers other than Capco; (3) Capco did not export brake rotors to the United States that were manufactured by producers other than Capco; (4) LLAFC did not export brake rotors to the United States that were manufactured by producers other than LLAFC or Honbase; and (5) Honbase did not export brake rotors to the United States that were manufactured by producers other than Honbase or LLAFC. In order to corroborate these submissions, we reviewed PRC brake rotor shipment data maintained by CBP, and noted no discrepancies with the statements made by these firms.

Furthermore, on July 28, 2005, Dixion and Wally noted, in accordance with section 351.214(j) of the Department's regulations, that their ongoing new shipper reviews covered all of their subject merchandise exports which would be subject to this administrative review. After consulting with both, Wally and Dixon agreed to a rescission of their administrative reviews. *See* Memorandum to the File from Carrie Blozy, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding the *8th Administrative Review of Brake Rotors from the People's Republic of China*, (July 28, 2005).

Therefore, for the reasons mentioned above, we are preliminarily rescinding the administrative review with respect to Jinzheng, Xumingyuan, CNAIIEC/other than Capco, Capco/other than Capco, LLAFC/other than LLAFC or Honbase, Honbase/other than Honbase or LLAFC, and Dixion and Wally because we either found no evidence that any of these companies made shipments of the subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3), or these companies consented to a rescission of the administrative review pursuant to 19 CFR 351.214(j).

Bona Fide Sale Analysis—SZAP

For the reasons stated below, we preliminarily find that SZAP's reported U.S. sale during the POR does not appear to be a *bona fide* sale, based on the totality of the facts on the record. *See Glycine From The People's Republic of China: Rescission of Antidumping Duty New Shipper Review of Hebei New Donghua Amino Acid Co.*, Ltd., 69 FR 47405, 47406 (August 5, 2004). Specifically, we find that: 1) the difference in the sales price of SZAP's single POR sale as compared to the prices of its subsequent sales, 2) the quantity of its single POR sale as compared to its subsequent sales, 3) questionable sales documentation pertaining to SZAP's U.S. sale; and finally, 4) other indicia of a non–*bona fide* transaction, all demonstrate that the single sale under review was not *bona fide*. Therefore, this sale does not provide a reasonable or reliable basis for calculating a dumping margin.

For the reasons mentioned above, the Department preliminarily finds that SZAP's sole U.S. sale during the POR was not a *bona fide* commercial transaction and is preliminarily rescinding the new shipper review of SZAP. For a more detailed analysis, *see* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Erin C. Begnal, Analyst, AD/CVD Operations, Office 9, regarding *Bona Fides Analysis and Intent to Rescind New Shipper Review of Brake Rotors from the People's Republic of China for Shanxi Zhongding Auto Parts Co., Ltd.* (May 1, 2006).

Non–Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non–market economy (''NME'') country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. *See*, *e.g.*, *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market–economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India is among the countries comparable to the PRC in terms of overall economic development. *See* Letter to ''All Interested Parties'' from Christopher D. Riker, Program Manager, AD/CVD Operations 9, regarding *Administrative Review and New Shipper Review of Brake Rotors from the People's Republic of China: Office of Policy list of Economically Comparable Countries and Schedule for Comments on Surrogate Country* at Attachment I (December 16, 2005). In addition, based on publicly available information placed on the record (*e.g.*, export data), India is a significant producer of the subject merchandise. *See* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael Quigley, Analyst, AD/CVD Operations, Office 9, regarding *2004–2005 Antidumping Duty Administrative Review and New Shipper Review of Brake Rotors from the People's Republic of China: Selection of a Surrogate Country* (May 1, 2006). Accordingly, we have selected India as the primary surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate–country selection. *See Id.*

Facts Available—Hengtai, Rotec and Xianjiang/Other than Zibo

For the reasons outlined below, we have applied total adverse facts available to Hengtai, Rotec and Xianjiang/Other than Zibo.

At the verification of SZAP, we found email correspondence between SZAP and Hengtai from the POR which indicated that SZAP produced brake rotors that were sold by Hengtai, and that Hengtai also purchased brake rotors from SZAP. Hengtai did not report that SZAP was a supplier during the POR and therefore there is no indication that Hengtai accurately reported its factors of production including SZAP's factors of production, as required. In addition, there is no indication that Hengtai included sales of subject merchandise manufactured by SZAP in its U.S. sales database, thereby understating its total U.S. sales.

Because these findings directly contradict statements made on the record by Hengtai that Hengtai produced all of the subject merchandise that it sold during the POR, we find that Hengtai did not provide the Department with accurate or complete data pursuant to section 776(a)(2) of the Act. Specifically, section 776(a)(2) of the Act provides that, if an interested party: (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

The evidence discovered at SZAP's verification suggests Hengtai likely sold subject merchandise produced by SZAP to the United States. If so, Hengtai should have reported U.S. sales of merchandise produced by SZAP as well as SZAP's factors of production in conjunction with its own. Because evidence obtained by the Department indicates that Hengtai's reported factors of production data certainly, and U.S. sales data likely, is incomplete, we have no choice but to apply facts available to Hengtai.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission . . ., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994) (''SAA''). Because Hengtai withheld information in its possession and failed to do its utmost in response to the Department's questions, the Department is applying total adverse facts available to Hengtai. *See* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration , through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, from Erin C. Begnal, Case Analyst, AD/CVD Operations, Office 9, Import Administration, regarding *2004/2005 Antidumping Administrative Review of Brake Rotors from the People's Republic of China: Preliminary Application of Adverse Facts Available to Xiangfen Hengtai Brake System Co., Ltd.*, (May 1, 2006) for further discussion on the application of adverse facts available to Hengtai.

The Department mailed Q&V questionnaires to Rotec and Xianjiang/Other than Zibo on June 7, 2005. However, both Rotec and Xianjiang/Other than Zibo failed to respond to the Department's Q&V questionnaire. By not responding to the Department's Q&V questionnaire, Rotec and Xianjiang/Other than Zibo failed to provide critical information to be used for the Department's respondent selection process. Pursuant to sections 776(a) and (b) of the Act, the Department may apply adverse facts available if it finds a respondent has failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department. By failing to respond to the Department's Q&V questionnaire, Rotec and Xianjiang/Other than Zibo have failed to act to the best of their ability in this segment of the proceeding.

In addition, because Rotec and Xianjiang/Other than Zibo did not participate in the respondent selection exercise, the Department did not send them a questionnaire and was unable to determine whether or not they qualified for a separate rate. Therefore, Rotec and Xianjiang/Other than Zibo are not eligible to receive a separate rate and will be part of the PRC–wide entity, subject to the PRC–wide rate. Pursuant to section 776(b) of the Act, we have applied total adverse facts available with respect to the PRC–wide entity, including, among others, Rotec and Xianjiang/Other than Zibo.

In this segment of the proceeding, in accordance with Department practice (*see, e.g., Brake Rotors from the People's Republic of China: Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 64 FR 61581, 61584 (November 12, 1999), as adverse facts available, we have assigned to exports of the subject merchandise by Rotec and Xianjiang/Other than Zibo a rate of 43.32 percent, which is the PRC–wide rate.

Corroboration of Facts Available

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure which it applies as facts available. To be considered corroborated, information must be found to be both reliable and relevant. We are applying as adverse facts available (''AFA'') the highest rate from any segment of this administrative proceeding, which is the rate currently applicable to all exporters subject to the PRC–wide rate. The information upon which the AFA rate is based in the current review (*i.e.*, the PRC–wide rate of 43.32 percent) was the highest rate from the petition in the LTFV investigation. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China*, 62 FR 18740 (April 17, 1997). This AFA rate is the same rate which the Department assigned to brake rotor companies in prior reviews and the rate itself has not changed since the original LTFV determination. *See, e.g., Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review: Final Results of the Eleventh New Shipper Review*, 70 FR at 69937 (November 18, 2005) (*Brake Rotors 7th Review Final Results*). For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The AFA rate we are applying for the current review was corroborated in reviews subsequent to the LTFV investigation to the extent that the Department referred to the history of corroboration. Furthermore, no information has been presented in the current review that calls into question the reliability of this information.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from*

Mexico; Final Results of Antidumping Administrative Review, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. The information used in calculating this margin was based on sales and production data submitted by the petitioner in the LTFV investigation, together with the most appropriate surrogate value information available to the Department chosen from submissions by the parties in the LTFV investigation, as well as information gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as AFA, we determine that this rate has relevance.

As the 43.32 percent rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the calculated rate of 43.32 percent, which is the current PRC–wide rate, is in accord with the requirement of section 776(c) that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value). We have assigned this AFA rate to exports of the subject merchandise by the PRC–wide entity, including Rotec and Xianjiang/Other than Zibo.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC–wide rate).

Of the 16 respondents participating in these reviews, four of the PRC companies (*i.e.*, Hongfa, Meita, Winhere and Yinghao) are owned wholly by entities located in market–economy countries. Thus, for these four companies, because we have no evidence indicating that they are under the control of the PRC government, a separate rates analysis is not necessary to determine whether they are independent from government control. *See*, *e.g.*, *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fifth New Shipper Review*, 66 FR 44331 (August 23, 2001); *see also Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104 (December 20, 1999).

The remaining 12 respondents (*i.e.*, Haimeng, Hengtai, CNIM, LABEC, Gren, ZLAP, Hongda, Huanri, Longkou TLC, ZGOLD, Fengkun, and Luqi) are either joint ventures between PRC and foreign companies, collectively–owned enterprises and/or limited liability companies in the PRC. Thus, for these 12 respondents, a separate rates analysis is necessary to determine whether the export activities of each above–mentioned respondent is independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026 (April 30, 1996) (''*Bicycles*''). To establish whether a firm is sufficiently independent in its export activities from government control to be entitled to a separate rate, the Department utilizes a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''); *See also Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''), where the Department adapted and amplified the separate rates test set out in *Sparklers*. Under the separate–rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities.

1. De Jure Control

Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Haimeng, Hengtai, CNIM, LABEC, Gren, ZLAP, Hongda, Huanri, Longkou TLC, ZGOLD, Fengkun, and Luqi have each placed on the administrative record documents to demonstrate an absence of *de jure* control (*e.g.*, the 1994 ''Foreign Trade Law of the People's Republic of China,'' and the 1999 ''Company Law of the People's Republic of China'').

As in prior cases, we have analyzed the laws presented to us and have found them to establish sufficiently an absence of *de jure* control over joint ventures between the PRC and foreign companies, and limited liability companies in the PRC. *See*, *e.g.*, *Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) (''*Furfuryl Alcohol*''); *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial–Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995). We have no new information in this proceeding which would cause us to reconsider this determination with regard to Haimeng, Hengtai, CNIM, LABEC, Gren, ZLAP, Hongda, Huanri, Longkou TLC, ZGOLD, Fengkun, and Luqi.

2. De Facto Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide*; *see also Furfuryl Alcohol*. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. *See Silicon Carbide*; *see also Furfuryl Alcohol*.

Haimeng, Hengtai, CNIM, LABEC, Gren, ZLAP, Hongda, Huanri, Longkou TLC, ZGOLD, Fengkun, and Luqi have each asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each of these companies' questionnaire responses indicates that its pricing

during the POR does not suggest coordination among exporters.

Consequently, with the exception of Huanri (as discussed below), we have preliminarily determined that Haimeng, Hengtai, CNIM, LABEC, Gren, ZLAP, Hongda, Huanri, Longkou TLC, ZGOLD, Fengkun, and Luqi have each met the criteria for the application of separate rates based on the documentation each of these respondents has submitted on the record of these reviews. *See* Memorandum to James C. Doyle, Director, AD/CVD Enforcement, Office 9, from Christopher D. Riker, Program Manager, AD/CVD Enforcement, Office 9, Import Administration, regarding *2004/2005 Administrative Review of Brake Rotors from the People's Republic of China: Separate Rates Analysis for Respondents (Including Exporters Not Being Individually Reviewed*) (May 1, 2006).

With respect to Huanri, the Department preliminarily finds that it has not demonstrated a *de facto* absence of government control with respect to making its own decisions in key personnel selections, the use of its profits from the proceeds of export sales, and the authority to negotiate and sign contracts and other agreements. *See Silicon Carbide*. Huanri is therefore not entitled to a separate rate.

As noted above, on March 8, 2006, Huanri filed a letter with the Department indicating that it wished to cancel the scheduled verification before it began. Huanri acknowledged in this letter that it understood, because of the verification cancellation, that the Department may find the company has not cooperated to the best of its ability pursuant to section 776(b) of the Act.

Section 776(a)(2)(C) of the Tariff Act of 1930, as amended (the ''Act''), provides that, if an interested party ''provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.'' Because the Department could not verify the information submitted by Huanri regarding its formation and ownership, that information cannot serve as the basis for the Department's determination regarding Huanri's eligibility for a separate rate. Moreover, because information concerning Huanri's submissions were unverifiable, Huanri has failed to demonstrate that it: (1) sets its own export prices independent of the government and without the approval of a government authority; (2) has authority to negotiate and sign contracts, and other agreements; (3) has autonomy from the government in making decisions regarding the selection of its management; and (4) retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Sparklers*. Therefore, as facts available, and because Huanri failed to satisfy its administrative burden, we preliminarily find that Huanri should properly be considered part of the PRC–wide entity and be subject to the PRC–wide rate.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Haimeng, Hongfa, Meita, and Winhere to the United States were made at prices below normal value (''NV''), we compared each company's export prices (''EPs'') or constructed export prices (''CEPs'') to NV, as described in the ''Export Price,'' ''Constructed Export Price,'' and ''Normal Value'' sections of this notice, below.

Export Price

For each respondent, we used EP methodology in accordance with section 772(a) of the Act for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We made the following company–specific adjustments:

A. Haimeng, Hongfa, Meita, and Winhere

We calculated EP based on packed, FOB or CIF foreign port prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC, and international freight, in accordance with section 772(c) of the Act. Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India. *See* ''Surrogate Country'' section below for further discussion of our surrogate–country selection.

To value foreign brokerage and handling expenses, we used publicly summarized or ''ranged'' expense data submitted during the past year by Indian companies in connection with other antidumping duty administrative reviews conducted by the Department.[4]

In determining the most appropriate surrogate values to use in a given case, the Department's stated practice is to use investigation or review period–wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the period of investigation or review, and publicly available data. The data we used for brokerage and handling expenses fulfill all of the foregoing criteria except that they are not specific to the subject merchandise: there is no information of that type on the record of this review.

The information we used corresponds in part to what the petitioners placed on the record for this expense category. However, we did not use part of the petitioners' information (*i.e.*, information from Pidilite Industries Ltd.) which stemmed from an earlier case because it is not contemporaneous with the POR in the instant case. We also did not use some of the information submitted by respondents Haimeng, Hongfa, Meita, Winhere, LABEC, Hongda, and Luqi because it is not clear what the information represents, *e.g.*, what time period it was taken from, whereas, as noted by petitioners, the Indian data we are using are per kilogram values paid by market economy companies and are representative of these Indian companies' actual practices during the POR.

We used a simple average of two companies' brokerage expense data in order to achieve a more representative value than a single source would provide. Both sources are of equal quality and are contemporaneous with the POR. *See Bicycles* (on using a simple, as opposed to a weighted, average in the calculation of financial ratios).

Two respondents (*i.e.*, Haimeng and Winhere) reported that they did not incur costs for the ball bearing cups and lug bolts they incorporated into certain brake rotor models which they exported to the United States, because their U.S. customers provided these items free–of-charge. Both companies supported their claims that their U.S. customers

[4] We used data from the public version of the February 28, 2005, Section C response of Essar Steel Limited in the antidumping duty administrative review of certain hot-rolled carbon steel flat products from India, which covers the period December 1, 2003, through November 30, 2004. We also used information from Agro Dutch Industries Ltd., taken from the administrative review of preserved mushrooms from India, for which the POR was February 1, 2004 through January 31, 2005. *See Certain Hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006); *see also Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006).

contracted with PRC ball bearing cup and lug bolts producers to deliver these components to the respondents in specific quantities free–of-charge, and that the components were then incorporated, in corresponding quantities, in the integral models shipped to U.S. customers during the POR.

To reflect the U.S. customers' expenditures for these items, we adjusted the U.S. price of the transactions in question by assigning Indian surrogate values to the ball bearing cups and lug bolts used in those integral brake rotor transactions and added these amounts to U.S. price. *See Brake Rotors 7th Review Final Results* and the accompanying Issues and Decisions Memorandum at Comment 5. *See also Certain Preserved Mushrooms From the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review* 70 FR 54361 (September 14, 2005), and the accompanying Issues and Decisions Memorandum at Comment 13.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors–of-production methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. The Department will base NV on the factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies.

For purposes of calculating NV, we valued the PRC factors of production in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was an average non–export value, representative of a range of prices within the POR or most contemporaneous with the POR, product–specific, and tax–exclusive. *See*, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004) (''*Chlorinated Isocyanurates*''). We used the usage rates reported by the respondents for materials, energy, labor, by–products, and packing. For a detailed explanation of the methodology used to calculate surrogate values, *see Preliminary Results Valuation Memorandum*, dated May 1, 2005 (''*Factor Valuation Memo*'').

Regarding the components supplied free–of charge to two respondents, section 773(c)(3) of the Act states that ''the factors of production utilized in producing merchandise include, but are not limited to the quantities of raw materials employed.'' Therefore, consistent with the corresponding adjustment to U.S. price discussed above, we valued the ball bearing cups and lug bolts usage amounts reported by these respondents for specific integral brake rotor models by using an Indian surrogate value for each input. *See Factor Valuation Memo*.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production reported by the respondents for the POR. We relied on the factor specification data submitted by the respondents for the above–mentioned inputs in their questionnaire and supplemental questionnaire responses, where applicable, for purposes of selecting surrogate values.

To calculate NV, we multiplied the reported per–unit factor quantities by publicly available Indian surrogate values (except where noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). Due to the extensive number of surrogate values in this administrative review, we present a discussion of the main factors. For a detailed description of all surrogate values used for respondents, *see Factor Valuation Memo*.

Except where discussed below, we valued raw material inputs using April 2004–March 2005 weighted–average Indian import values derived from the *World Trade Atlas* online (''*WTA*'') (*see also Factor Valuation Memo*). The Indian import statistics we obtained from the *WTA* were published by the DGCI&S, Ministry of Commerce of India, which were reported in rupees. Indian surrogate values denominated in foreign currencies were converted to U.S. dollars using the applicable average exchange rate for India for the POR. The average exchange rate was based on exchange rate data from the Department's Web site. *See http://ia.ita.doc.gov/exchange/index.html*. Where we could not obtain PAI contemporaneous with the POR with which to value factors, we adjusted the surrogate values for inflation using Indian wholesale price indices (''WPIs'') as published in the International Monetary Fund's *International Financial Statistics*. *See Factor Valuation Memo*.

Furthermore, with regard to the Indian import–based surrogate values, we have disregarded prices from NME countries and those that we have reason to believe or suspect may be subsidized (*i.e.*, Indonesia, South Korea, and Thailand). We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies. Therefore, it is reasonable to believe or suspect all exports to all markets from these countries are subsidized. *See*, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From The People's Republic*, 58 FR 48833 (September 20, 1993), and accompanying Issues and Decision Memorandum at Comment 1.

Finally, we excluded imports that were labeled as originating from an ''unspecified'' country from the average value, because the Department could not be certain that they were not from either an NME or a country with general export subsidies.

To value lubrication oil, we used January 2004–December 2004 *WTA* average import values from the Philippines, because the post–March 2000 Indian import values from *WTA* for this input were unavailable or were labeled as originating from an ''unspecified'' country. Moreover, the import values from *WTA* for the other recommended surrogate countries either did not provide data on a country–of-origin–specific basis or were unavailable.

We valued electricity using the 2000 total average price per kilowatt hour for ''Electricity for Industry'' as reported in the International Energy Agency's publication, *Energy Prices and Taxes, Second Quarter, 2003*. We adjusted this rate for inflation.

The Department revised its calculation of expected wages of selected NME countries. *See http://ia.ita.doc.gov/wages/index.html*. The Department's revised calculation of expected NME wages, consistent with its normal methodology and with Section 351.408(c)(3) of the Department's regulations, is based on the most current data available as of November 2005. The Department's expected NME wage rate for the PRC is USD $0.97 per hour. We used this wage rate in valuing labor.

To value corrugated paper cartons, nails, plastic bags, plastic sheets/covers, paper sheet, steel strip, particle board, plywood and straps/buckles, tape and pallet wood, we used April 2004–March 2005 average import values from *WTA*. All respondents (with the exception of Hengtai) included the weight of the clamps/buckles in their reported steel strip weights since the material of both inputs was the same. Therefore, we valued these factors using the combined weight reported by the respondents.

To value PRC inland freight for inputs shipped by truck, we used Indian freight rates from the following Web site: *http://www.infreight.com*. To value PRC inland freight by barge we used an Indian domestic shipping rate from the 2000–2001 antidumping duty administrative review of helical spring lock washers from the PRC. *See Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 67 FR 8520 (Feb. 25, 2002), and accompanying decision memorandum at comment 5; *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 13674 (March 20, 2003). We adjusted this rate for inflation.

To value factory overhead and selling, general and administrative (''SG&A'') expenses, and profit, we used data from the 2004–2005 financial reports of Kalyani Brakes Limited and Rico Auto Industries Limited. These Indian companies are producers of the subject merchandise based on data contained in each Indian company's financial reports.

Where appropriate, the excise duty amounts listed in the financial reports were removed from the surrogate overhead and SG&A calculations. Moreover, petitioners made certain adjustments to the calculated ratios as a result of reclassifying certain expenses contained in the financial reports consistent with the Department's normal practice. *See, e.g., Brake Rotors 7th Review Final Results*. For a further discussion of the adjustments made, *see Factor Valuation Memo*.

Two respondents (*i.e.*, Winhere and Meita) neglected to report transportation distances from their casting facilities to their finishing workshops. *See* Winhere Verification Report; *see also* Meita Verification Report. Therefore, for purposes of these preliminary results, we are using the surrogate value for truck freight to value this foreign inland transportation expense for these two companies using distances information obtained at verification. *See* Memorandum to the File, through Christopher D. Riker, Program Manager, Ad/CVD Operations, Office 9, Import Administration, from Thomas Killiam, Analyst, AD/CVD Operations, Office 9, Import Administration, regarding *2004/2005 Antidumping Duty Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Calculation Memorandum for the Preliminary Results for Yantai Winhere Auto–Part Manufacturing Co., Ltd. (''Winhere'')* (May 1, 2006); *see also* Memorandum to the File, through Christopher D. Riker, Program Manager, Ad/CVD Operations, Office 9, Import Administration, from Thomas Killiam, Analyst, AD/CVD Operations, Office 9, Import Administration, regarding *2004/2005 Antidumping Duty Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Calculation Memorandum for the Preliminary Results for Qingdao Meita Automotive Industry Co., Ltd. (''Meita)* (May 1, 2006) (''Meita Calculation Memo'').

Additionally, Meita was unable to substantiate the reported carbon content of the ferromanganese it consumes in the production of the subject merchandise. *See* Meita Verification Report. Therefore, pursuant to section 776(a)(2)(D) of the Act, for purposes of these preliminary results, we are valuing this input based on the facts available. Moreover, because we determine that Meita failed to cooperate by not acting to the best of its ability to report the carbon content, pursuant to Section 776(b) of the Act, we have applied the higher of the two potential surrogate values to value the ferromanganese consumption for this company as adverse facts available. *See* Meita Calculation Memo.

Finally, we note that although Hongfa reported bentonite and coal powder as inputs in the sand mixing stage of production which it believes should be valued in overhead, company officials explained at verification that these items are in fact added to the sand every time the sand is mixed, even if the sand itself has been recycled. For a more detailed explanation, *see* Hongfa Verification Report. Therefore, for purposes of these preliminary results, we are valuing bentonite and coal powder as raw material costs for Hongfa using information obtained at verification as facts available. *See* Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, from Thomas Killiam, Analyst, AD/CVD Operations, Office 9, Import Administration, regarding *2004/2005 Antidumping Duty Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Calculation Memorandum for the Preliminary Results for Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa'')* (May 1, 2006). The Department also plans to consider whether or not these inputs should be valued for all of the respondents subject to this administrative review after the publication of these preliminary results.

Preliminary Results of Reviews

We preliminarily determine that the following margins exist during the period April 1, 2004, through March 31, 2005:

Individually Reviewed Exporters 2004/2005 Administrative Review	Weighted–Average Margin (Percent)
Longkou Haimeng Machinery Co., Ltd.	10.13
Xiangfen Hengtai Brake System Co., Ltd.	43.32
Hongfa Machinery (Dalian) Co., Ltd.	22.67
Qingdao Meita Automotive Industry Company, Ltd.	0.17
Yantai Winhere Auto–Part Manufacturing Co., Ltd.	0.04

''Sample Rate'' Exporters 2004/2005 Administrative Review	''Sample Rate'' Margin (Percent)
China National Industrial Machinery Import & Export Corporation	10.93
Laizhou Automobile Brake Equipment Co., Ltd.	10.93
Laizhou Hongda Auto Replacement Parts Co., Ltd.	10.93
Laizhou City Luqi Machinery Co., Ltd.	10.93
Longkou TLC Machinery Co., Ltd.	10.93
Qingdao Gren (Group) Co.	10.93
Shanxi Fengkun Metallurgical Limited Company	10.93
Shenyang Yinghao Machinery Co.	10.93

''Sample Rate'' Exporters 2004/2005 Administrative Review	''Sample Rate'' Margin (Percent)
Zibo Golden Harvest Machinery Limited Company	10.93
Zibo Luzhou Automobile Parts Co., Ltd.	10.93

PRC–Wide Rate	Margin (Percent)
PRC–Wide Rate	43.32

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due 5 days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP within 15 days of publication of the final results of these reviews. Pursuant to 19 CFR 351.212(b)(1), for the companies selected in the sample for which we calculated a margin, we will calculate importer- or customer–specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. For certain respondents which are being assigned the sample rate, we will instruct CBP to assess antidumping duties on these company's entries equal to the sample rate margin these companies receive in the final results, regardless of the importer or customer.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. For entries of the subject merchandise during the POR from companies not subject to these reviews that have separate rates, we will instruct CBP to liquidate them at the cash deposit rate in effect at the time of entry. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

At the completion of this new shipper review, either with a final rescission or a notice of final results, the Department will notify CBP that bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC produced and exported by SZAP that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review. The following cash deposit requirements will be effective upon publication of the final results of the new shipper review for all shipments of subject merchandise from SZAP entered, or withdrawn from warehouse, for consumption on or after the publication date: (1) for subject merchandise manufactured and exported by SZAP, the deposit rate will continue to be the PRC–wide rate (*i.e.*, 43.32 percent) if the Department continues to determine, in the final results, that the sale under review remains non–*bona fide* and consequently rescinds the review; and (2) for subject merchandise exported by SZAP but not manufactured by SZAP, the cash deposit rate will also continue to be the PRC–wide rate.

The following deposit requirements will be effective upon publication of the final results of the administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for Haimeng, Hengtai, Hongfa, Meita, Winhere, CNIM, LABEC, Hongda, Luqi, LKTLC, GREN, Fengkun, Yinghao, ZGOLD and ZLAP will be the rates determined in the final results of review (except that if a rate is *de minimis*, *i.e.*, less than 0.50 percent, no cash deposit will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding (which were not reviewed in this segment of the proceeding) will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (including Huanri, Rotec, Xianjiang/Other than Zibo) will be 43.32 percent; and (4) the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter.

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative and new shipper reviews and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: May 1, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–6988 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–850, A–588–851, A–485–805]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania: Continuation of Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on certain large diameter carbon and alloy seamless standard, line and pressure pipe from Japan and (Large Diameter SSLPP), and certain small diameter carbon and alloy seamless standard, line and pressure pipe (Small Diameter SSLPP) from Japan and Romania would be likely to lead to continuation or recurrence of dumping and of material injury to an industry in the United States within a reasonably foreseeable time, the Department is publishing notice of the continuation of these antidumping duty orders.

EFFECTIVE DATE: May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Saliha Loucif or Brandon Farlander, Office 1, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1779 and (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2005, the Department initiated and the ITC instituted a sunset review of the antidumping duty orders on SSLPP from Japan and Romania, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (Sunset) Reviews*, 70 FR 22632 (May 2, 2005); *see also Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Czech Republic, Japan, Mexico, Romania, and South Africa*, 70 FR 22688, (May 2, 2005).

As a result of its review, the Department found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. *See Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Mexico; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 53159 (September 7, 2005); *see also Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ inches) from the Czech Republic, Japan, Romania, and South Africa; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 53151 (September 7, 2005). On April 24, 2006, the ITC determined pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on Large Diameter SSLPP from Japan and Small Diameter SSLPP from Japan and Romania would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From the Czech Republic, Japan, Mexico, Romania, and South Africa, 71 FR 24860 (April 27, 2006), and ITC Publication 3850 (April 2006) (First Review), Investigation No. 731–TA–846–850.

Scope of the Order: Large Diameter SSLPP

The products covered by this order are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (ASTM) A53, ASTM A106, ASTM A333, ASTM A334, ASTM A589, ASTM A795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application, with the exception of the exclusions discussed below. The scope of this order also includes all other products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification, with the exception of the exclusions discussed below.

Specifically included within the scope of this order are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall–thickness, manufacturing process (hot finished or cold–drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to this order are currently classifiable under the subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.31.60.50, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.60, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas, and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM A335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A106 standard.

Seamless standard pipes are most commonly produced to the ASTM A53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A333 or ASTM A334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification. Seamless water well pipe (ASTM A589) and seamless galvanized pipe for fire protection uses (ASTM A795) are used for the conveyance of water. Seamless pipes are commonly produced and certified to meet ASTM

A106, ASTM A53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers. The primary application of ASTM A106 pressure pipes and triple or quadruple certified pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A106 pipes may be used in some boiler applications.

The scope of this order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the exclusions discussed below, whether or not also certified to a non–covered specification. Standard, line, and pressure applications and the above–listed specifications are defining characteristics of the scope of this order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A53, ASTM A106, ASTM A333, ASTM A334, ASTM A589, ASTM A795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A106 applications. These specifications generally include ASTM A161, ASTM A192, ASTM A210, ASTM A252, ASTM A501, ASTM A523, ASTM A524, and ASTM A618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of this order.

Specifically excluded from the scope of this order are:

A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A53, ASTM A106, ASTM A333, ASTM A334, ASTM A589, ASTM A795, and API 5L specifications and are not used in standard, line, or pressure pipe applications.

B. Finished and unfinished oil country tubular goods (OCTG), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

C. Products produced to the A335 specification unless they are used in an application that would normally utilize ASTM A53, ASTM A106, ASTM A333, ASTM A334, ASTM A589, ASTM A795, and API 5L specifications.

D. Line and riser pipe for deepwater application, *i.e.*, line and riser pipe that is (1) used in a deepwater application, which means for use in water depths of 1,500 feet or more; (2) intended for use in and is actually used for a specific deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (*e.g.*, API 5L). With regard to the excluded products listed above, the Department will not instruct U.S. Customs and Border Protection (CBP) to require end–use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, the Department will require end–use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by the petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–335 specification is being used in an A–106 application, it will require end–use certifications for imports of that specification. Normally the Department will require only the importer of record to certify to the end–use of the imported merchandise. If it later proves necessary for adequate implementation, the Department may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

Scope of the Orders: Small Diameter SSLPP

The products covered by the orders are seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the orders also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of the orders are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall–thickness, manufacturing process (hot finished or cold–drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish. The seamless pipes subject to the orders are currently classifiable under the subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gases in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various ASME code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units,

automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications. Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes is use in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical–fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or ''hollow profiles'' of carbon or alloy steel transformed by hot rolling or cold drawing/ hydrostatic testing or other methods to enable the material to be sold under ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications.

The scope of the orders includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the specific exclusions discussed below, and whether or not also certified to a non–covered specification. Standard, line, and pressure applications and the above–listed specifications are defining characteristics of the scope of the orders. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below. For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, with the exception of the specific exclusions discussed below, such products are covered by the scope of the orders.

Specifically excluded from the scope of the orders are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished oil country tubular goods (OCTG) are excluded from the scope of the orders, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

With regard to the excluded products listed above, the Department will not instruct U.S. Customs and Border Protection (CBP) to require end–use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being used in a covered application. If such information is provided, we will require end–use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in covered applications as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–161 specification is being used in a standard, line or pressure application, we will require end–use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Determination

As a result of the determinations by the Department and ITC that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on Large Diameter SSLPP from Japan and Small Diameter SSLPP from Japan and Romania.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than March 2011.

These five-year (sunset) reviews and this notice are in accordance with section 751(c) of the Act.

Dated: May 2, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–6923 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–828, A–557–809, A–565–801]

Stainless Steel Butt–Weld Pipe Fittings from Italy, Malaysia, and the Philippines; Final Results of the Expedited Five-year (''Sunset'') Reviews of Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 3, 2006, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on

stainless steel butt–weld pipe fittings (butt–weld pipe fittings) from Italy, Malaysia, and the Philippines pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties, and no response from respondent interested parties, the Department conducted expedited (120-day) sunset reviews of these antidumping duty orders. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels identified below in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: May 8, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Scott, AD/CVD Operations, Office 7, or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2657 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated sunset reviews of the antidumping duty orders on butt–weld pipe fittings from Italy, Malaysia, and the Philippines pursuant to section 751(c) of the Act. *See Initiation of Five-year (''Sunset'') Reviews*, 71 FR 91 (January 3, 2006). The Department received a notice of intent to participate from four domestic interested parties, Flowline Division of Markovitz Enterprises, Inc. (Flowline), Gerlin, Inc. (Gerlin), Shaw Alloy Piping Products, Inc. (formerly Alloy Piping Products, Inc.) (Shaw Alloy), and Taylor Forge Stainless, Inc. (Taylor Forge) (collectively, domestic interested parties), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. We received a complete substantive response from domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). However, we did not receive any responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

Scope of the Orders

For purposes of these orders, the product covered is certain stainless steel butt–weld pipe fittings (butt–weld fittings). Butt–weld pipe fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and ''commodity'' and ''specialty'' fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The butt–weld fittings subject to these orders are generally designated under specification ASTM A403/A403M, the standard specification for Wrought Austenitic Stainless Steel Piping Fittings, or its foreign equivalents (*e.g.*, DIN or JIS specifications). This specification covers two general classes of fittings, WP and CR, of wrought austenitic stainless steel fittings of seamless and welded construction covered by the latest revision of ANSI B16.9, ANSI B16.11, and ANSI B16.28. Butt–weld fittings manufactured to specification ASTM A774, or its foreign equivalents, are also covered by these orders.

These orders do not apply to cast fittings. Cast austenitic stainless steel pipe fittings are covered by specifications A351/A351M, A743/743M, and A744/A744M.

The butt–weld fittings subject to these orders are currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Analysis of Comments Received

All issues raised in these cases are addressed in the ''Issues and Decision Memorandum'' from Stephen Claeys, Deputy Assistant Secretary for AD/CVD Operations, Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated May 3, 2006 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Sunset Reviews

We determine that revocation of the antidumping duty orders on butt–weld pipe fittings from Italy, Malaysia, and the Philippines would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

Manufacturers/ Exporters/Producers	Weighted–Average Margin (Percent)
Italy.	
Coprosider S.p.A.	26.59
All Others	26.59
Malaysia.	
Kanzen Tetsu Sdn. Bhd.	7.51
All Others	7.51
The Philippines.	
Enlin Steel Corporation	33.81
Tung Fong Industrial Co., Inc.	7.59
All Others	7.59

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 27, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–6937 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041706A]

Taking of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, by harassment, incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB) in California.

DATES: This authorization is effective from April 30, 2006, until April 29, 2007.

ADDRESSES: A copy of the application, IHA, and/or a list of references used in this document may be obtained by writing to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, (301) 713–2289, ext 137, or Monica DeAngelis, NMFS, (562) 980–3232.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking by Level B harassment of small numbers of marine mammals of a species or population stock by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> * * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On October 17, 2005, CALTRANS sumbitted a request to NOAA requesting renewal of an IHA for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsi*), harbor porpoises (*Phocoena phocoena*), and gray whales (*Eschrichtius robustus*) incidental to the construction of a replacement bridge for the East Span of the SF-OBB, in San Francisco Bay (SFB or the Bay), California. An IHA was issued to CALTRANS for this activity on January 3, 2005 and expired on January 3, 2006 (70 FR 2123, January 12, 2005). Background information on the issuance of this IHA was published in the **Federal Register** on January 26, 2006 (71 FR 4352). A detailed description of the SF-OBB project was provided in the **Federal Register** on November 14, 2003 (68 FR 64595), and is not repeated here.

Comments and Responses

A notice of receipt and request for 30–day public comment on the application and proposed authorization was published on January 26, 2006 (71 FR 4352). During the 30–day public comment period, comments were received from the Marine Mammal Commission (the Commission).

Comment 1: The Commission believes NMFS' preliminary determinations are reasonable, provided that the visual monitoring of the safety zone to be conducted prior to and during pile driving operations is adequate to detect all marine mammals within the safety zone. According to CALTRANS, pile driving would occur from 7 a.m. to 7 p.m., visual monitoring in the late afternoon and early evening would be compromised during the winter months.

Response: The Marine Mammal Monitoring Plan developed by CALTRANS in May 2002 notes that marine mammal observers will have night-time infrared (IR) scopes or other tools to conduct monitoring during low light conditions. CALTRANS has indicated that when using the IR scopes the marine mammal safety zone and marine mammals are visible. Please also refer to **Federal Register** notice published on November 14, 2003 (68 FR 64595) for additional information. NMFS will require the use of IR scopes in the IHA.

Comment 2: The Commission continues to believe that, in situations where a temporary threshold shift (TTS) may lead to biologically significant behavioral effects (e.g., an increased risk of natural predation or ship strikes), it should be considered as having the potential for injury (i.e., Level A Harassment).

Response: CALTRANS will implement a series of mitigation measures including visual monitoring prior to and during construction, installation of a bubble curtain for in-water pile driving, establishment of safety/buffer zones, and implementing ''soft star'' hammer strikes. Based on CALTRANS' June 2004 and January 2005 annual monitoring reports, the East Span Project is resulting in only small numbers of pinnipeds being harassed (through October 2005, the biological observers indicated that only one startle behavior of a sea lion was observed as a result of construction). Therefore, NMFS believes that it is not likely that a TTS would occur. In addition, NMFS has addressed the issue

of impact assessment in several previous small take authorizations, and without new scientific documentation on this issue, a detailed response is not warranted here. For reviewers interested in this discussion, refer to the incidental take authorizations for the USS WINSTON S. CHURCHILL shock trial (66 FR 22450, May 4, 2001) and Eglin Air Force Base's Precision Strike Weapon (70 FR 48675, August 19, 2005).

Comment 3: An across-the-board redefinition of TTS from Level A harassment to Level B harassment raises questions both in terms of the activities that involve the potential for repeated TTS harassment and of general cumulative effects. The Commission recommends that NMFS revise its assessment of TTS accordingly.

Response: As NMFS has stated in a previous **Federal Register** notice (68 FR 64595, November 14, 2003) that the reclassification of TTS is irrelevant for this IHA, since mitigation and monitoring requirements under the IHA should prevent TTS. While there have been debates among scientists regarding whether a permanent shift in hearing threshold (PTS) can occur with repeated exposures of TTS, at least one study showed that long-term (4 - 7 years) noise exposure on three experimental pinniped species had caused no change on their underwater hearing thresholds at frequencies of 0.2 - 6.4 kHz (Southall *et al.*, 2005).

Description of the Marine Mammals Potentially Affected by the Activity

General information on the marine mammal species found in California waters can be found in Caretta *et al.* (2004), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/PR2/Stock__Assessment__Program/*sars.html. Refer to that document for information on these species.

The marine mammals most likely to be found in the SF-OBB area are the California sea lion, Pacific harbor seal, and harbor porpoise. From December through May gray whales may also be present in the SF-OBB area. Information on these 4 species was provided in the November 14, 2003 (68 FR 64595) and January 26, 2006 (71 FR 4352) **Federal Register** notices and is not repeated here.

Potential Effects on Marine Mammals and Their Habitat

CALTRANS and NMFS have determined that open-water pile driving, as outlined in the project description, has the potential to result in a Level B harassment (e.g., disruption of behavioral patterns) of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales that may be swimming, foraging, or resting in the project vicinity while pile driving is being conducted. Pile driving could potentially harass those few pinnipeds that are in the water close to the project site, whether their heads are above or below the surface.

Based on airborne noise levels measured and on-site monitoring conducted during 2004 under the previous IHA, noise levels from the East Span project did not result in the harassment of harbor seals hauled out on Yerba Buena Island (YBI). Also, noise levels from the East Span project are not expected to result in harassment of the sea lions hauled out at Pier 39 as airborne and waterborne sound pressure levels (SPLs) would attenuate to below harassment levels by the time they reach that haul-out site, 5.7 kilometers (3.5 miles) from the project site.

For reasons provided in greater detail in NMFS' November 14, 2003 (68 FR 64595) **Federal Register** notice and in CALTRANS' June 2004 and January 2005 annual monitoring reports, the East Span Project is resulting in only small numbers of pinnipeds being taken by Level B harassment (through October 2005, the biological observers indicated that only one startle behavior of a sea lion was observed as a result of East Span construction) and, therefore, is not expected to result in more than a negligible impact on marine mammal species or stocks and will not have a significant impact on their habitat. Short-term impacts to habitat may include minimal disturbance of the sediment where the channels are dredged for barge access and where individual bridge piers are constructed. Long-term impacts to marine mammal habitat will be limited to the footprint of the piles and the obstruction they will create following installation. However, this impact is not considered significant as the marine mammals can easily swim around the piles of the new bridge, as they currently swim around the existing bridge piers.

Mitigation

The following mitigation measures are required under the IHA to reduce impacts to marine mammals to the lowest extent practicable.

Barrier Systems

An air bubble curtain system is required to be used only when driving the permanent open-water piles at Piers E3 - E6 of Skyway and Piers E1 and E2 of the Self-Anchored Suspension (SAS) span. While the bubble curtain is required specifically as a method to reduce impacts to endangered and threatened fish species in SFB, it may also provide some benefit to marine mammals. The NMFS' Biological Opinion and the California Department of Fish and Game's (CDFG) 2001 Incidental Take Permit also allow for the use of other equally effective methods, such as cofferdams, as an alternative to the air bubble curtain system to attenuate the effects of sound pressure waves on fish during driving of permanent in-Bay piles (NMFS 2001; CDFG, 2001). Piers E–16 through E–7 for both the eastbound and westbound structures of the Skyway will be surrounded by sheet-pile cofferdams, which will be de-watered before the start of pile driving. De-watered cofferdams are generally effective sound attenuation devices. For Piers E3 through E6 of the Skyway and Piers 1 and E2 of the Self-Anchored Suspension span, it is anticipated that cofferdams will not be used; therefore, a bubble curtain will surround the piles.

Sound Attenuation

As a result of the determinations made during the Pile Installation Demonstration Project (PIDP) restrike and the investigation at the Benicia-Martinez Bridge, NMFS determined in 2003 that CALTRANS must install an air bubble curtain for pile driving for the open-water piles without cofferdams located at the SF-OBB. This air bubble curtain system consists of concentric layers of perforated aeration pipes stacked vertically and spaced no more than five vertical meters apart in all tide conditions. The minimum number of layers must be in accordance with water depth at the subject pile: 0–<5 m = 2 layers (1263 cfm); 5–<10 m = 4 layers (2526 cfm), 10–<15 m = 7 layers (4420 cfm); 15–<20 m = 10 layers (6314 cfm); 20–<25 m= 13 layers (8208 cfm). The lowest layer of perforated aeration pipes must be designed to ensure contact at all times and tidal conditions with the mudline without sinking into the bay mud. Pipes in any layer must be arranged in a geometric pattern, which will allow for the pile driving operation to be completely enclosed by bubbles for the full depth of the water column.

To provide a uniform bubble flux, each aeration pipe must have four adjacent rows of air holes along the pipe. Air holes must be 1.6–mm diameter and spaced approximately 20 mm apart. The bubble curtain system will provide a bubble flux of at least two cubic meters per minute, per linear meter of pipeline in each layer. Air holes must be placed in 4 adjacent rows.

The air bubble curtain system must be composed of the following: (1) An air compressor(s), (2) supply lines to deliver the air, (3) distribution manifolds or headers, (4) perforated aeration pipes, and (5) a frame. The frame facilitates transport and placement of the system, keeps the aeration pipes stable, and provides ballast to counteract the buoyancy of the aeration pipes in operation. Meters are required to monitor the operation of the bubble curtain system. Pressure meters will be installed and monitored at all inlets to aeration pipelines and at points of lowest pressure in each branch of the aeration pipeline. If the pressure or flow rate in any meter falls below 90 percent of its operating value, the contractor will cease pile driving operations until the problem is corrected and the system is tested to the satisfaction of the CALTRANS resident engineer.

Establishment of Safety/Buffer Zones

A safety zone is to be established and monitored to include all areas where the underwater SPLs are anticipated to equal or exceed 180 dB re 1 microPa RMS (impulse) for harbor porpoises and gray whales, and 190 dB re 1 microPa RMS (impulse) for pinnipeds, for open water pile driving activities. Prior to commencement of any pile driving, a preliminary 500–m (1,640–ft) radius safety zone for marine mammals will be established around the pile driving site, as it was for the PIDP. Once pile driving begins, either new safety zones can be established for the 500 kJ and 1700 kJ hammers or the 500 m (1,640 ft) safety zone can be retained. If new safety zones are established based on SPL measurements, NMFS requires that each new safety zone be based on the most conservative measurement (i.e., the largest safety zone configuration). SPLs will be recorded at the 500–m (1,640–ft) contour. The safety zone radius for marine mammals will then be enlarged or reduced, depending on the actual recorded SPLs.

Observers on boats will survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment will be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor will wait 15 minutes and if no marine mammals are seen by the observer in that time it will be assumed that the animal has moved beyond the safety zone. This 15–minute criterion is based on scientific evidence that harbor seals in San Francisco Bay dive for a mean time of 0.50 minutes to 3.33 minutes (Harvey and Torok, 1994), and the mean diving duration for harbor porpoises ranges from 44 to 103 seconds (Westgate *et al.*, 1995). However, due to the limitations of monitoring from a boat, there can be no assurance that the zone will be devoid of all marine mammals at all times.

Once the pile driving of a segment begins it cannot be stopped until that segment has reached its predetermined depth due to the nature of the sediments underlying the Bay. If pile driving stops and then resumes, it would potentially have to occur for a longer time and at increased energy levels. In sum, this would simply amplify impacts to marine mammals, as they would endure potentially higher SPLs for longer periods of time. Pile segment lengths and wall thickness have been specially designed so that when work is stopped between segments (but not during a single segment), the pile tip is never resting in highly resistant sediment layers. Therefore, because of this operational situation, if seals, sea lions, or harbor porpoises enter the safety zone after pile driving of a segment has begun, pile driving will continue and marine mammal observers will monitor and record marine mammal numbers and behavior. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously in this document.

Soft Start

It should be recognized that although marine mammals will be protected from Level A harassment by establishment of an air-bubble curtain and marine mammal observers monitoring a 190–dB safety zone for pinipeds and 180–dB safety zone for cetaceans, mitigation may not be 100 percent effective at all times in locating marine mammals. Therefore, in order to provide additional protection to marine mammals near the project area by allowing marine mammals to vacate the area prior to receiving a potential injury, CALTRANS will also ''soft start'' the hammer prior to operating at full capacity. CALTRANS typically implements a ''soft start'' with several initial hammer strikes at less than full capacity (i.e., approximately 40–60 percent energy levels) with no less than a 1 minute interval between each strike. Similar levels of noise reduction are expected underwater. Therefore, the contractor will initiate hammering of both the 500–kJ and the 1,700–kJ hammers with this procedure in order to allow pinnipeds or cetaceans in the area to voluntarily move from the area, this should expose fewer animals to loud sounds both underwater and above water noise. This would also ensure that, although not expected, any pinnipeds and cetaceans that are missed during safety zone monitoring will not be injured.

Compliance with Equipment Noise Standards

To mitigate noise levels and, therefore, impacts to California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, all construction equipment will comply with applicable equipment noise standards of the U.S. Environmental Protection Agency, and all construction equipment will have noise control devices no less effective than those provided on the original equipment.

Monitoring

The following monitoring measures are required under the IHA to reduce impacts to marine mammals to the lowest extent practicable.

Visual Observations

The area-wide baseline monitoring and the aerial photo survey to estimate the fraction of pinnipeds that might be missed by visual monitoring have been completed under the current IHA and do not need to be continued.

Safety zone monitoring will be conducted during driving of all open-water, permanent piles without cofferdams and with cofferdams when underwater SPLs reach 180 dB RMS or greater. Monitoring of the pinniped and cetacean safety zones will be conducted by a minimum of three qualified NMFS-approved observers for each safety zone. One three-observer team will be required for the safety zones around each pile driving site, so that multiple teams will be required if pile driving is occurring at multiple locations at the same time. The observers will begin monitoring at least 30 minutes prior to startup of the pile driving. Observers will conduct the monitoring from small boats, as observations from a higher vantage point (such as the SF-OBB) is not practical. Pile driving will not begin until the safety zone is clear of marine mammals. However, as described in the Mitigation section, once pile driving of a segment begins, operations will continue uninterrupted until the segment has reached its predetermined depth. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to

commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements outlined previously (see Mitigation). Monitoring will continue through the pile driving period and will end approximately 30 minutes after pile driving has been completed. Biological observations will be made using binoculars during daylight hours. Infrared (IR) scopes will be used during low light condition for marine mammal monitoring.

In addition to monitoring from boats, during open-water pile driving, monitoring at one control site (harbor seal haul-out sites and the waters surrounding such sites not impacted by the East Span Project's pile driving activities, i.e. Mowry Slough) will be designated and monitored for comparison. Monitoring will be conducted twice a week at the control site whenever open-water pile driving is being conducted. Data on all observations will be recorded and will include items such as species, numbers, behavior, details of any observed disturbances, time of observation, location, and weather. The reactions of marine mammals will be recorded based on the following classifications that are consistent with the Richmond Bridge Harbor Seal survey methodology (for information on the Richmond Bridge authorization, see 68 FR 66076, November 25, 2003): (1) No response, (2) head alert (looks toward the source of disturbance), (3) approach water (but not leave), and (4) flush (leaves haul-out site). The number of marine mammals under each disturbance reaction will be recorded, as well as the time when seal re-haul after a flush.

Acoustical Observations

Airborne noise level measurements have been completed and underwater environmental noise levels will continue to be measured as part of the East Span Project. The purpose of the underwater sound monitoring is to establish the safety zone of 190 dB re 1 micro-Pa RMS (impulse) for pinnipeds and the safety zone of 180 dB re 1 micro-Pa RMS (impulse) for cetaceans. Monitoring will be conducted during the driving of the last half (deepest pile segment) for any given open-water pile. One pile in every other pair of pier groups will be monitored. One reference location will be established at a distance of 100 m (328 ft) from the pile driving. Sound measurements will be taken at the reference location at two depths (a depth near the mid-water column and a depth near the bottom of the water column but at least 1 m (3 ft) above the bottom) during the driving of the last half (deepest pile segment) for any given pile. Two additional in-water spot measurements will be conducted at appropriate depths (near mid water column), generally 500 m (1,640 ft) in two directions either west, east, south or north of the pile driving site will be conducted at the same two depths as the reference location measurements. In cases where such measurements cannot be obtained due to obstruction by land mass, structures or navigational hazards, measurements will be conducted at alternate spot measurement locations. Measurements will be made at other locations either nearer or farther as necessary to establish the approximate distance for the safety zones. Each measuring system shall consist of a hydrophone with an appropriate signal conditioning connected to a sound level meter and an instrument grade digital audiotape recorder (DAT). Overall SPLs shall be measured and reported in the field in dB re 1 micro-Pa RMS (impulse). An infrared range finder will be used to determine distance from the monitoring location to the pile. The recorded data will be analyzed to determine the amplitude, time history and frequency content of the impulse.

Reporting

Under previous IHAs, CALTRANS submitted weekly marine mammal monitoring reports and in January, 2005, CALTRANS submitted its Marine Mammal and Acoustic Monitoring for the Eastbound Structure. This annual report is available by contacting NMFS (see **ADDRESSES**) or on the Web at *http://biomitigation.org*. A report for the 2005 season will be completed and posted here shortly.

Under the 2006 IHA, coordination with NMFS will occur on a weekly basis, or more often as necessary. During periods with open-water pile driving activity, weekly monitoring reports will be made available to NMFS and the public at *http://biomitigation.org*. These weekly reports will include a summary of the previous week's monitoring activities and an estimate of the number of seals and sea lions that may have been taken by Level B harassment as a result of pile driving activities.

In addition, CALTRANS will provide NMFS' Southwest Regional Administrator with a draft final report within 90 days after completion of the westbound Skyway contract and 90 days after completion of the Suspension Span foundations contract. This report should detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed due to pile driving. If comments are received from the Regional Administrator on the draft final report, a final report must be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft final report will be considered to be the final report.

National Environmental Policy Act (NEPA)

In November, 2003, NMFS prepared an Environmental Assessment (EA) and, on November 4, 2003, made a Finding of No Significant Impact (FONSI). A review of the renewal of this IHA has determined that the findings and determinations made in the 2003 EA/FONSI continue to accurately address the impacts on the human environment through the taking of marine mammals by the CALTRANS project. Therefore, preparation of an environmental impact statement on this action is not required by section 102(2) of the NEPA or its implementing regulations. A copy of the EA and FONSI are available upon request (see **ADDRESSES**).

Endangered Species Act (ESA)

On October 30, 2001, NMFS completed consultation under section 7 of the ESA with the Federal Highway Administration (FHWA) on the CALTRANS' construction of a replacement bridge for the East Span of the SF-OBB in California. The finding contained in the Biological Opinion was that the proposed action at the East Span of the SF-OBB is not likely to jeopardize the continued existence of listed anadromous salmonids, or result in the destruction or adverse modification of designated critical habitat for these species. Listed marine mammals are not expected to be in the area of the action and thus would not be affected. The issuance of this IHA to CALTRANS constitutes an agency action that authorizes an activity that may affect ESA-listed species and, therefore, is subject to section 7 of the ESA. Moreover, as the effects of the activities on listed salmonids were analyzed during a formal consultation between the FHWA and NMFS, and as the underlying action has not changed from that considered in the consultation, the discussion of effects that are contained in the Biological Opinion issued to the FHWA on October 30, 2001, pertains also to this action. In conclusion, NMFS has determined that issuance of an IHA for this activity does not lead to any effects to listed species apart from those that were considered in the consultation on FHWA's action.

Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has determined that the impact of pile driving and other activities associated with construction of the East Span Project may result in the Level B harassment of small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and potentially gray whales that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to determine that this action will have a negligible impact on California sea lions, Pacific harbor seals, harbor porpoises, and gray whale populations along the California coast.

In addition, no take by Level A harassment (injury) or death is anticipated or authorized and Level B harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Authorization

For the reasons previously discussed, NMFS has issued an IHA for a 1–year period to take small numbers of harbor seals, California sea lions, harbor porpoises, and gray whales, by Level B harassment incidental to construction of a replacement bridge for the East Span of the San Franciso-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has determined that the activity would result in the harassment of only small numbers of harbor seals, California sea lions, harbor porpoises, and possibly gray whales and will have no more than a negligible impact on these marine mammal stocks.

Dated: April 27, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–6929 Filed 5–5–06; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 06–C0003]

West Bend Housewares, LLC, a Limited Liability Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with West Bend Housewares, LLC, a Limited Liability Corporation, containing a civil penalty of $100,000,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 23, 2006.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to Comment 06–C0003, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7587.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: May 2, 2006.

Todd A. Stevenson,

Secretary.

I. Settlement Agreement and Order

1. This Settlement Agreement is made by and between the staff (''the staff'') of the U.S. Consumer Product Safety Commission (''the Commission'') and West Bend Housewares, LLC (''West Bend''), a limited liability corporation, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquires under the Consumer Product Safety Act (''CPSA''). This Settlement Agreement and the incorporated Order settle the staff's allegations set forth below.

II. The Parties

2. The Commission is an independent Federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

3. West Bend is a limited liability corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located at 2845 Wingate Street, West Bend, WI 53095. West Bend is a subsidiary of Focus Products Group, LLC of Vernon Hills, IL. West Bend is a manufacturer and internet retailer of small electrical appliances.

III. Allegations of the Staff

4. Between August 2004 and February 2005, West Bend manufactured and sold nationwide approximately 14,322 10-Cut Automatic Coffeemakers, Item 56870 and Replacement Carafes, Item No. 5815.

5. The 10-Cup Automatic Coffeemakers and the Replacement Carafes are ''consumer products'' and West Bend is a ''manufacturer'' and ''retailer'' of ''consumer products,'' which are ''distributed in commerce'' as those terms are defined in sections 3(a)(1), (4), (6), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (6), (11), and (12).

6. The 10-Cup Automatic Coffeemaker, Item No. 56870 is a programmable automatic coffeemaker with a glass carafe that has a plastic black handle. The 10-Cup Replacement Carafe, Item No. 5815 was distributed as a replacement carafe for the 10-Cup Automatic Coffeemaker, Item No. 56870. The carafe's handle can unexpectedly loosen or break, resulting in the carafe falling. If this should occur, consumers may sustain burn injuries from hot coffee or lacerations from broken glass.

7. In October and November 2004, West Bend received several reports from consumers alleging failures of carafe handles. On or about November 30, 2004, West Bend's Product Safety Committee (''safety committee'') met and decided to monitor the carafe failures and to have consumers return the broken handles for further evaluation.

8. In December 2004, West Bend acquired a couple of samples of broken handles for evaluation. A brief evaluation of these handles revealed a problem with the plastic material and/or the processing. West Bend asked the foreign manufacturer to investigate the breakage problem and to make the necessary corrections.

9. On or about February 2, 2005, the foreign manufacturer advised West Bend that the materials used in the handles was ''not so good.'' At that time, West Bend retained an outside plastics expert who found that the material used in the broken handle did not meet West

Bend's specifications. West Bend placed all inventory on hold, but did not report the problem to the Commission.

10. Beginning in April 2005, West Bend audited each container of carafes to determine whether the handles were made in accordance with West Bend's specifications. On or about April 8, 2005, West Bend received a call from a consumer who spilled coffee on his legs and feet when the carafe's handle broke. West Bend sent the consumer a replacement carafe, but still did not report to the Commission.

11. West Bend resumed shipments of the 10-Cup Automatic Coffeemaker, Item No. 56870 or on about April 11, 2005. On May 31, 2005, West Bend received a report from a consumer who allegedly sustained minor burns and cuts when the carafe handle fell off the carafe. West Bend still did not report.

12. West Bend reported to the Commission on or about July 15, 2005. At the time of its report, West Bend had received at least 169 reports of handle breakage and at least two (2) reports of minor burns and/or cuts as a result of the handle breakage.

13. As indicated in paragraphs 4 through 13 above, by February 2005, West Bend obtained information which reasonably supported the conclusion that the 10-Cup Automatic Coffeemaker, Item 56870 and its Replacement Carafe, Item 5815 contained a defect which could create a substantial product hazard, but failed to report such information in a timely manner as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

14. By failing to furnish information as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), West Bend violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

15. West Bend committed this failure to timely report to the Commission ''knowingly'' as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d), subjecting West Bend to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069.

IV. West Bend's Response

16. West Bend denies the staff's allegations that it violated the CPSA as set forth in paragraphs 4 through 15 above.

17. West Bend specifically contests and denies that the timing of its voluntary report to the CPSC was ''knowingly'' in violation of the CPSA's reporting requirements. West Bend is a recently formed small business that had no prior experience dealing with the U.S. Consumer Product Safety Commission when the issues with the carafe arose. West Bend was aware of the CPSA and its reporting regulations. Acting in good faith to interpret and understand those regulations, West Bend did not believe that the issues with the carafe handles presented either a substantial product hazard or an unreasonable risk of serious injury or death, as those terms are used in the CPSA and its implementing regulations.

18. By agreeing to this settlement, West Bend does not admit to any of the staff's allegations set forth in the settlement document.

V. Agreement of the Parties

19. The Consumer Product Safety Commission has jurisdiction over this matter and over West Bend under the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

20. The parties enter into this Settlement Agreement for settlement purposes only. The Settlement Agreement does not constitute an admission by West Bend or a determination by the Commission that West Bend violated the CPSA's reporting requirements.

21. In settlement of the staff's allegations, West Bend agrees to pay a civil penalty in the amount of $100,000 within twenty (20) calendar days of receiving service of the Final Order of the Commission accepting this Settlement Agreement. This payment shall be made by check payable to the order of the United States Treasury.

22. Upon provisional acceptance of this Agreement by the Commission, this Agreement shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written objections within 15 days, the Agreement will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

23. Upon final acceptance of the Agreement by the Commission and issuance of the Final Order, West Bend knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether West Bend failed to comply with the CPSA and the underlying regulations, (4) to a statement of findings of fact or conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

24. The Commission may publicize the terms of the Settlement Agreement and Order.

25. This Settlement Agreement and Order shall apply to, and be binding upon West Bend and each of its successors and assigns.

26. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. 2051–2084, and a violation of this Order may subject West Bend to appropriate legal action.

27. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations apart from those contained in this Settlement Agreement and Order may not be used to vary or contradict its terms.

28. This Settlement Agreement shall not be waived, changed, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, change, amendment, modification, or alteration is sought to be enforced, and the approval of the Commission.

29. If, after the effective date hereof, any provision of this Settlement Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Settlement Agreement and Order, such provisions shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission and West Bend determine that severing the provision materially changes the purpose of the Settlement Agreement and Order.

West Bend Housewares, LLC

Dated: March 28, 2006.

Michael L. Carpenter,
President, West Bend Housewares, LLC, 2845 Wingate Street, P.O. Box 2780, West Bend, WI 53095.

Dated: March 29, 2006.

Erika Z. Jones,
Attorney for West Bend Housewares, LLC, Mayer, Brown, Rowe, & Maw, LLP, 1909 K Street, NW., Washington, DC 20006–1101.

Commission

John Gibson Mullan
Assistant Executive Director, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

Ronald G. Yelenik,
Acting Director, Legal Division, Office of Compliance and Field Operations.

Dated: April 3, 2006.

Dennis C. Kacoyanis,
Trial Attorney, Legal Division, Office of Compliance and Field Operations.

Order

Upon consideration of the Settlement Agreement entered into between West Bend Housewares, LLC and the staff of

the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and West Bend Housewares, LLC; and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered that the Settlement Agreement be, and hereby is, accepted; and it is

Further Ordered that upon final acceptance of the Settlement Agreement and Order, West Bend Housewares, LLC shall pay to the Commission a civil penalty in the amount of $100,000 within twenty (20) days after service upon West Bend of this Final Order of the Commission.

Provisionally accepted and Provisional Order issued on the 2nd day of May 2006.

By Order of the Commission.

Todd A. Stevenson,
Secretary Consumer Product Safety Commission.

[FR Doc. 06–4291 Filed 5–5–06; 8:45 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled Requests for Budget Amendment Related to Disaster Relief Effort, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, AmeriCorps, Amy Borgstrom, Associate Director of Policy, (202) 606–6930, or by e-mail at *ABorgstrom@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to Office of Information and Regulatory Affairs, Attn: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register:**

(a) By fax to: (202) 395–6974, Attention: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service; and

(b) Electronically by e-mail to: *Rachel_F._Potter@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Current Action

Description: This submission includes one set of instructions for current grantees to submit requests for budget amendment in order to carry out disaster relief efforts. The instructions were approved on the basis of an emergency request submitted on September 29, 2005 and approved October 5, 2005, with OMB Control Number 3045–0113 and expiration date of March 31, 2006. They were approved for an extension on March 17, 2006, with OMB Control Number 3045–0113 and expiration date of August 31, 2006.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Requests for Budget Amendment Related to Disaster Relief Efforts.

OMB Number: 3045–0113.

Agency Number: None.

Affected Public: States and nonprofit organizations.

Total Respondents: 111 for Budget Amendment Requests.

Frequency: Each grantee is only eligible to use these instructions once. The Corporation plans to continue to engage in disaster relief efforts using these instructions after the date that the emergency approval expires, hence this request for regular clearance.

Average Time Per Response: Budget Amendment Request: 1 hour.

Estimated Total Burden Hours: 111 hours for Budget Amendment Requests.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: May 1, 2006.

Elizabeth D. Seale,

Interim Director, AmeriCorps State and National, COO, Corporation for National and Community Service.

[FR Doc. E6–6908 Filed 5–5–06; 8:45 am]

BILLING CODE 6050–$$–P

ELECTION ASSISTANCE COMMISSION

Notice of Sunshine Act Meeting

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting for EAC Board of Advisors.

DATE AND TIME: Tuesday, May 23, 2006, 12 noon–5:30 p.m. and Wednesday, May 24, 2006, 8:30 a.m.–5 p.m.

PLACE: Hamilton Crowne Plaza, 1001 14th Street, NW. (14th and K Streets, NW.), Washington, DC 20005, (202) 682–0111.

PURPOSE: The U.S. Election Assistance Commission (EAC) Board of Advisors, as required by the Help America Vote Act of 2002, will meet and receive updates on EAC research projects and activities and discuss other relevant matters pertaining to the administration of Federal elections. The Board will receive an update regarding recent work conducted by the National Institute of Standards and Technology (NIST) on the voluntary voting system guidelines. The Board will elect officers and consider the appointment of a proxy committee and the appointment of a resolutions committee. The Board will receive reports of committees and discuss other administrative matters.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–4293 Filed 5–3–06; 4:11 pm]

BILLING CODE 6820–KF–M

ELECTION ASSISTANCE COMMISSION

Notice of Sunshine Act Meeting

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting for EAC Standards Board.

DATE AND TIME: Tuesday, May 23, 2006, 12 noon–5:30 p.m. and Wednesday, May 24, 2006, 8:30 a.m.–5 p.m.

PLACE: Hamilton Crowne Plaza, 1001 14th Street, NW. (14th and K Streets, NW.), Washington, DC 20005, (202) 682–0111.

TOPICS: The U.S. Election Assistance Commission (EAC) Standards Board, as required by the Help America Vote Act of 2002, will meet and receive updates on EAC research projects and activities and discuss other relevant matters pertaining to the administration of federal elections. The Board will receive an update regarding recent work conducted by the National Institute of Standards and Technology (NIST) on the voluntary voting system guidelines.

The Board will receive and consider the proposed permanent bylaws and elect a member to fill a vacancy on the executive board. The Board will receive reports of committees and discuss other administrative matters.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–4294 Filed 5–3–06; 4:11 pm]

BILLING CODE 6820–KF–M

ELECTION ASSISTANCE COMMISSION

Notice of Sunshine Act Meeting

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting.

DATE AND TIME: Thursday, May 25, 2006, 10 a.m.–1 p.m.

PLACE: Hamilton Crowne Plaza, 1001 14th Street, NW. (14th and K Streets, NW.), Washington, DC 20005, (202) 682–0111.

AGENDA: The Commission will receive presentations on the poll worker recruitment and training project and will receive presentations on college poll worker recruitment and training from election officials and grantees of the HAVA College Poll Worker Initiative. The Commission will receive reports on other administrative matters. The Commission will consider adopting an Ex Parte Communications policy.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–4295 Filed 5–3–06; 4:11 pm]

BILLING CODE 6820–KF–M

ELECTION ASSISTANCE COMMISSION

Notice of Sunshine Act Meeting

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting for the Executive Board of the EAC Standards Board.

DATE AND TIME: Monday, May 22, 2006, 7–9 p.m.

PLACE: Hamilton Crowne Plaza, 1001 14th Street, NW. (14th and K Streets, NW.), Washington, DC 20005, (202) 682–0111.

TOPICS: The Executive Board of the U.S. Election Assistance Commission (EAC) Standards Board will meet to plan and prepare for the meeting of Standards Board, and to handle other administrative matters.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–4296 Filed 5–3–06; 4:11 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

[OE Docket No. EA–200–B]

Application To Export Electric Energy; American Electric Power Service Corporation

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: American Electric Power Service Corporation (AEPSC) has applied, on behalf of its generation-owning public utility affiliates, to renew their authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before May 23, 2006.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–5860).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On April 6, 1999, the Department of Energy (DOE) issued Order No. EA–200 authorizing each of AEPSC's five generation-owning public utility members individually to transmit electric energy from the United States to Canada. Order No. EA–200 authorized Appalachian Power Company (APC), Columbus Southern Power Company (CSPC), Indiana Michigan Power Company (IMPC), Kentucky Power Company (KPC) and Ohio Power Company (OPC) individually to export electric energy from the United States to Canada for a two-year term. On May 22, 2001, in Order No. EA–200–A, DOE renewed that authorization for a five-year term and added Central Power & Light Company, Public Service Company of Oklahoma (PSCO), Southwestern Electric Power Company (SEPC) and West Texas Utilities Company to the list of AEPCS's member companies authorized to export electric energy to Canada.

On April 20, 2006, AEPSC filed an application with DOE on behalf of only seven of its current public utility affiliates (APC, CSPC, IMPC, KPC, OPC, PSCO, and SEPC) for renewal of the export authority contained in Order No. EA–200–A for an additional five-year term. The electric energy that each company proposes to export electric to Canada would be either surplus to its own needs or purchased on the wholesale market. Each company authorized to export would individually arrange for the delivery of those exports over the international transmission facilities presently owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International

Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, Vermont Electric Power Company, Inc. and Vermont Electric Transmission Company.

Because the existing authority contained in Order No. EA–200–A is due to expire on May 22, 2006, AEPSC has requested expedited treatment of this amendment application so that there would be no gap in export authority. In response to the AEPSC request, DOE has shortened the comment period to 15 days.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the dates listed above.

Comments on the AEPSC application to export electric energy to Canada should be clearly marked with Docket EA–200–B. Additional copies are to be filed directly with John C. Crespo, Esq., American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215–2373 AND John R. Lilyestrom, Esq., Hogan & Hartson, LLP, 555 13th Street, NW., Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or you may send an email to Odessa Hopkins at *odessa.hopkins@hq.doe.gov.*

Issued in Washington, DC, on May 2, 2006.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E6–6906 Filed 5–5–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–66–000]

Cincinnati Gas and Electric Company; Notice of Declaratory Order

May 1, 2006.

Take notice that on April 18, 2006, Cincinnati Gas and Electric Company d/b/a/ Duke EnergyOhio, *et at.* submitted a request that the Commission issue a declaratory order finding that the payment of dividends described in this petition does not violate section 305(a) of the Federal Power Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 11, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6899 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–36–017]

Dauphin Island Gathering Partners; Notice of Negotiated Rate

May 1, 2006.

Take notice that on April 24, 2006, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets listed below to become effective May 24, 2006:

Twenty-Fifth Revised Sheet No. 9.
Twentieth Revised Sheet No. 10.

Dauphin Island states that copies of the filing are being served contemporaneously on its customers and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail

FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6900 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–077]

Dominion Transmission, Inc.; Notice of Negotiated Rates

May 1, 2006.

Take notice that on April 26, 2006, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective May 1, 2006:

Fifth Revised Sheet No. 1405.
Original Sheet No. 1423.
Original Sheet No. 1424.
Sheet Nos. 1425–1499.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6901 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–144–000]

Houston Hub Storage and Transportation, L.P.; Notice of Petition

May 1, 2006.

Take notice that on April 24, 2006, Houston Hub Storage and Tranportation, L.P., 20333 State Highway 249, Suite 400, Houston, TX 77070, filed a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(5)), and section 7(c)(1)(B) of the Natural Gas Act (15 U.S.C. 717(c)(1)(B)), seeking approval of an exemption from certificate requirements to perform temporary activities related to drilling and testing operations to determine the viability of developing a salt dome natural gas storage project in Liberty County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact *FERC at FERCOnlineSupport@ferc.gov* or call toll-free (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the petition should be directed to Joseph H. Fagan, Heller Ehrman LLP, 1717 Rhode Island Ave., NW.; Washington, DC 20036–3001 and Phone: 202–912–2162; Fax: 202–912–2020.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web (*http://www.ferc.gov*) site under the ''e-Filing'' link.

Comment Date: May 10, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6902 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–145–000]

Southern Natural Gas Company; Notice of Application

May 1, 2006.

Take notice that on April 26, 2006, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP06–145–000 an application pursuant to section 7(b) of the Commission's regulations under the Natural Gas Act (NGA), as amended, for authorization to abandon, by sale, to Denbury Onshore, LLC approximately 142 miles of transmission pipelines predominantly ranging from 8 to 18 inches in diameter and appurtenant facilities, including nine meter stations, which extends in an easterly direction from Tensas Parish, Louisiana, to its Gwinville Compressor Station in Jefferson Davis County, Mississippi (Facilities), and the services provided by those Facilities. Additionally, Southern requests that the Commission make a determination that, upon the sale of the Facilities, neither the Facilities nor the services provided through the Facilities will be subject to the jurisdiction of the Commission under section 1(b) of the Natural Gas Act. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to John C. Griffin, Senior Counsel, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563 at (205) 325–7133.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: May 22, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6897 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–068]

TransColorado Gas Transmission Company; Notice of Compliance Filng

May 1, 2006.

Take notice that on April 24, 2006, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Thirteenth Revised Sheet No. 21 and Sixth Revised Sheet No. 22B, to be effective April 20, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6896 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL05–148–000 and ER05–1410–000]

PJM Interconnection, L.L.C.; Notice of Staff Technical Conference

May 1, 2006.

Take notice that, as directed by the Commission in its April 20, 2006 Order,[1] a staff technical conference will be held on Wednesday, June 7, 2006, from 9 a.m. to 5 p.m. (EST) and Thursday, June 8, 2006, from 9 a.m. onwards, but no later than 5 p.m. (EST) at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in a room to be designated.

As explained in the April 20 Order, the purpose of the conference will be to address specific issues relating to the mechanisms to be used by PJM Interconnection, L.L.C. (PJM) to enable customers to satisfy reliability requirements. This conference is intended to be an informal working session focused solely on determining the appropriate parameters for the variable resource requirement, and the long term fixed resource adequacy requirement accepted by the Commission in the April 20 Order. It is, therefore, not appropriate to revisit the merits of those elements of RPM themselves in this technical conference.

The following issues to be discussed at the conference were set forth by the Commission in Appendix A to the April 20 Order:

I. Variable Resource Requirement

A. How should the height and slope of the downward sloping demand curve be determined? Should the curve be based on the net cost of new generation entry, or on other factors such as the value to customers of alternative levels of capacity?

B. If the demand curve is based on the cost of new generation entry, what is the cost of new entry?

C. How should expected revenues from the energy and ancillary service markets be estimated and how should they be used to adjust the height and slope of the demand curve?

D. What is the appropriate capacity level at which the capacity price should equal the net cost of new entry.

E. What is the appropriate slope or slopes for various portions of the demand curve?

F. What is the appropriate maximum price and the appropriate capacity level at which the price of capacity should fall to zero?

II. Long Term Fixed Resource Adequacy Requirement

A. What should be the time period for which load serving entities (LSEs) must commit to using the long-term fixed resource requirement option?

B. What should be the level of deficiency charge needed to ensure compliance?

C. Should an LSE that fails to procure the full amount of capacity be precluded thereafter from using the long-term fixed resource requirement option?

D. How much capacity should the LSE be required to procure under this option?

All attendees will be welcome to participate to the extent possible. Parties who will participate in a conference panel will be asked to submit written comments of their position on the issues set forth above by May 30, 2006. Parties interested in serving on panels addressing specific issues may notify the Commission by accessing an online form at *http://www.ferc.gov/whats-new/registration/pjm-06-07-speaker-form.asp.* Please specify which of the topics you propose to address. All requests should be submitted on or before May 10, 2006. To ensure that all points of view are represented and to help the conference move more smoothly and expeditiously, we encourage parties sharing the same position on an issue or issues to coordinate their efforts and designate one speaker to represent their shared position. In place of preliminary presentations from the panelists, staff will present questions to the panelists and ask for responses and discussion. To the extent that time permits during each panel, staff will also take questions or comments from the floor. Facilities for real-time PowerPoint presentations will not be available. All parties may file post-conference comments on or before June 22, 2006.

The conference will be transcribed. Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's eLibrary seven calendar days after FERC receives the transcript. The eLibrary is accessible to the public on the Internet at *http://ferc.fed.us/docs-filing/elibrary.asp.*

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend the conference. For more information about the conference, please contact John McPherson by e-mail at *john.mcpherson@ferc.gov* or by phone at 202–502–6418.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6898 Filed 5–5–06; 8:45 am]

BILLING CODE 6717–01–P

[1] *PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,079 (2006) (April 20 Order).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0343; FRL–8059–1]

Safer Detergents Stewardship Initiative; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is developing the Safer Detergents Stewardship Initiative (SDSI) to recognize companies, facilities, and others who voluntarily phase out or commit to phasing out the manufacture or use of nonylphenol ethoxylate surfactants (NPEs). These surfactants are used in detergents and in cleaning and other products. Both NPEs and their breakdown products, such as nonylphenol, can harm aquatic life. For more information on SDSI, see EPA's Web site: *http://www.epa.gov/dfe/pubs/projects/formulat/sdsi.htm.* EPA will hold a public meeting in Washington, DC on June 12, 2006, to discuss its plans for SDSI and to solicit stakeholder views on the initiative.

DATES: The meeting will be held on June 12, 2006, from 2 p.m. to 5 p.m.

Registration is encouraged on or before May 29, 2006. Registration will also be accepted at the meeting.

Requests to speak at the meeting must be received on or before May 29, 2006.

For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT** at least 10 business days prior to the meeting.

ADDRESSES: The meeting will be held at the EPA Headquarters Bldg., 1201 Constitution Ave., NW., Washington DC 20460–0001.

For information on registration, requests to speak, and requests for accommodation of a disability, see Unit III. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Kathleen Vokes, Economics Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9910; e-mail address: *vokes.kathleen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to those companies who manufacture or use surfactants. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2006–0343; FRL–8059–1. Publicly available docket materials are available electronically at *http://www.regulations.gov* or in hard copy at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

The proposed agenda for the SDSI meeting will cover the initiative's scope, participant benefits, and eligibility for recognition. The meeting is open to the public.

III. How Can I Request to Participate in this Meeting?

Submit your registration, request to speak, or request for accommodation of a disability, identified by docket ID number EPA–HQ–OPPT–2006–0343, to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Do not submit any information considered Confidential Business Information (CBI).

Registration on or before May 29, 2006 is encouraged. However, registration will also be accepted at the meeting. Requests to speak at the meeting must be received on or before May 29, 2006.

Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access and assistance for the hearing impaired, should contact the technical person listed under **FOR FURTHER INFORMATION CONTACT** at least 10 business days prior to the meeting so that appropriate arrangements can be made.

List of Subjects

Environmental protection, Hazardous substances, Pollution prevention, Surfactants.

Dated: May 2, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E6–6921 Filed 5–5–06; 8:45 am]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting; Sunshine Act

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 11, 2006, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- April 6, 2006 (Open and Closed).

B. New Business

- Determination of Significant Regulatory Actions under Executive Order 12866.

C. Reports

- Young, Beginning, and Small Farmers—System Results for 2005 Information.
- Investments in Rural America—Status Report Information.
- Office of Management Services—Quarterly Report Information.
- Office of Examination—FCS Conditions.

Closed Session*

- Office of Examination—FCS Oversight.

Dated: May 4, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 06–4314 Filed 5–4–06; 12:07 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Deletion of Agenda Items from May 3, 2006, Open Meeting

May 3, 2006.

The following items have been deleted from the list of Agenda items scheduled for consideration at the Wednesday, May 3, 2006, Open Meeting and previously listed in the Commission's Notice of Wednesday, April 26, 2006.

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Item No.	Bureau	Subject
4	Wireline Competition	*Title:* Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA *et al.*, Schools and Libraries Universal Service Support Mechanism (WC Docket No. 02–6). *Summary:* The Commission will consider an Order addressing requests for review of decisions of the Universal Service Administrator with respect to the Schools and Libraries Universal Service support mechanism.
5	Wireline Competition	*Title:* Request for Review of the Decision of the Universal Service Administrator by Lake Grove at Maple Valley, Inc., Lake Grove Schools, Wendall, MA, *et al.*, Schools and Libraries Universal Service Support Mechanism (WC Docket No. 02–6). *Summary:* The Commission will consider an Order addressing requests for review of decisions of the Universal Service Administrator with respect to the Schools and Libraries Universal Service support mechanism.

Federal Communications Commission

Marlene H. Dortch,

Secretary.

[FR Doc. 06–4331 Filed 5–4–06; 2:41 pm]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting Notice; Announcing a Partially Open Meeting of the Board of Directors

TIME AND DATE: The open meeting of the Board of Directors is scheduled to begin at 10 a.m. on Wednesday, May 10, 2006. The closed portion of the meeting will follow immediately the open portion of the meeting.

PLACE: Board Room, First Floor, Federal Housing Finance Board, 1625 Eye Street NW., Washington DC 20006.

STATUS: The first portion of the meeting will be open to the public. The final portion of the meeting will be closed to the public.

MATTER TO BE CONSIDERED AT THE OPEN PORTION: 2006 Designation of Federal Home Loan Bank Directorships.

MATTER TO BE CONSIDERED AT THE CLOSED PORTION: Periodic Update of Examination Program Development and Supervisory Findings.

FOR FURTHER INFORMATION CONTACT: Shelia Willis, Paralegal Specialist, Office of General Counsel, at 202–408–2876 or *williss@fhfb.gov*.

Dated: May 3, 2006.

By the Federal Housing Finance Board.

John P. Kennedy,

General Counsel.

[FR Doc. 06–4301 Filed 5–4–06; 9:52 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve

SUMMARY: Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before July 7, 2006.

ADDRESSES: You may submit comments, identified by FR 2900, FR 2910a, FR 2915, FR 2930, FR 2930a, by any of the following methods:

• Agency Web Site: http://www.federalreserve.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.

• Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

• E–mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

• FAX: 202/452–3819 or 202/452–3102.

• Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Michelle Long, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposals to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. Report title: Report of Transaction Accounts, Other Deposits and Vault Cash
Agency form number: FR 2900
OMB control number: 7100–0087
Frequency: Weekly, quarterly
Reporters: Depository institutions
Annual reporting hours: 586,166 hours
Estimated average hours per response: 3.50 hours
Number of respondents: 2,752 weekly and 6,093 quarterly
General description of report: This information collection is mandatory (12 U.S.C. 248(a), 461, 603, and 615) and is given confidential treatment (5 U.S.C. 552(b)(4)).
Abstract: Nonexempt institutions—defined as those with net transaction accounts greater than the exemption amount or with total deposits equal to or greater than the reduced reporting limit—file the fifteen–item FR 2900 weekly if their total deposits are equal to or greater than the nonexempt deposit cutoff and quarterly if their total deposits are less than the nonexempt deposit cutoff. U.S. branches and agencies of foreign banks and banking Edge and agreement corporations are required to submit FR 2900 data weekly regardless of their deposit size. These mandatory data are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates.
Current Actions: The Federal Reserve proposes to (1) raise the nonexempt deposit cutoff to $229.1 million (compared with an indexed level of $181.1 million) and set the reduced reporting limit at its indexed value of $1.206 billion beginning in September 2006; (2) calculate the nonexempt deposit cutoff and the reduced reporting limit using the sum of total transaction accounts, savings deposits, and small time deposits, rather than total deposits, beginning with the September 2007 panel shift; and (3) index the nonexempt deposit cutoff and the reduced reporting limit annually to 80 percent of the June–to–June growth in total transaction accounts, savings deposits, and small time deposits at all depository institutions. The actual values of the nonexempt deposit cutoff and the reduced reporting limit to be used in September 2007 will be announced under the usual schedule, in October 2006.

2. Report title: Annual Report of Total Deposits and Reservable Liabilities
Agency form number: FR 2910a
OMB control number: 7100–0175
Frequency: Annually
Reporters: Depository institutions
Annual reporting hours: 5,317 hours
Estimated average hours per response: 45 to 60 minutes, depending on entity type
Number of respondents: 5,605
General description of report: This information collection is mandatory (12 U.S.C. 248(a) and 461) and is given confidential treatment (5 U.S.C. 552(b)(4)).
Abstract: Currently, the three–item FR 2910a is generally filed by exempt institutions whose net transaction accounts are greater than the exemption amount and whose total deposits (as shown on their December Call Report) are greater than the exemption amount but less than the reduced reporting limit. Respondents submit single–day data as of June 30. These mandatory data are used by the Federal Reserve for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates.
Current Actions: The Federal Reserve proposes to make the following revisions to the FR 2910a reporting form, effective for the June 30, 2007, report date (1) replace data item 1, ''Total Deposits,'' with ''Total Transaction Accounts, Savings Deposits, and Small Time Deposits;'' (2) delete the parenthetical text from data item 1, ''(If the amount reported for this item is less than or equal to $7.0 million, Items 2 and 2.a need not be completed);'' (3) change the reporting form title from, ''Annual Report of Total Deposits and Reservable Liabilities,'' to ''Annual Report of Deposits and Reservable Liabilities;'' and (4) require depository institutions to submit either a positive or negative value in data item 2.a, ''Net Transaction Accounts,'' rather than reporting negative values as zero, as is currently required.

3. Report title: Allocation of Low Reserve Tranche and Reservable Liabilities Exemption
Agency form number: FR 2930/2930a
OMB control number: 7100–0088
Frequency: Annually and on occasion
Reporters: Depository institutions
Annual reporting hours: 40 hours
Estimated average hours per response: 15 minutes
Number of respondents: 160
General description of report: This information collection is mandatory (12 U.S.C. 248(a), 461, 603, and 615) and is given confidential treatment (5 U.S.C. 552(b)(4)).
Abstract: The FR 2930 and FR 2930a collect data on the allocation of the low reserve tranche and reservable liabilities exemption amount for depository institutions having offices (or groups of offices) that file separate FR 2900 deposit reports. The FR 2930 is filed by U.S. branches and agencies of foreign banks and banking Edge and agreement corporations; the FR 2930a is filed by other types of depository institutions. Both reporting forms collect the same data. However, the instructions and explanatory information differ. These mandatory data are used to calculate the reserve requirement of an institution that submits separate FR 2900 data for two or more offices, that institution is required to allocate, using the FR 2930, the low reserve tranche and the exemption among those offices.
Current Actions: The Federal Reserve proposes to combine the FR 2930 and FR 2930a into one reporting form (FR 2930) that would be used by any entity type (both foreign–related and domestic institutions). The instructions for the FR 2930 reporting form would be modified to reflect this change. The effective date of this revision would be September 30, 2006.

Proposal to approve under OMB delegated authority the extension for three years, without revision of the following report:

1. Report title: Report of Foreign (Non–U.S.) Currency Deposits
Agency form number: FR 2915
OMB control number: 7100–0237
Frequency: Quarterly
Reporters: Depository institutions
Annual reporting hours: 214 hours
Estimated average hours per response: 30 minutes
Number of respondents: 107
General description of report: This information collection is mandatory (12 U.S.C. 248(a)(2), and 347(d)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2915 collects seven–day averages of the amounts outstanding for foreign (non–U.S.) currency–denominated deposits held at U.S. offices of depository institutions, converted to U.S. dollars and included in the institution's FR 2900 data. Foreign currency deposits are subject to reserve requirements and, therefore, are included in the FR 2900 data submission. All weekly and quarterly FR 2900 respondents offering foreign currency deposits file the six–item FR 2915 quarterly, on the same reporting schedule as quarterly FR 2900 respondents. Data collected on the FR 2915 are mainly used in the construction of the monetary aggregates. These data are included in deposit data submitted on the FR 2900 for reserve requirement purposes, but they are not included in the monetary aggregates. The FR 2915 is the only source of data on such deposits.

Board of Governors of the Federal Reserve System, May 2, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–6895 Filed 5–5–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for One Family Planning General Training and Technical Assistance Grant in Public Health Service Region VI

AGENCY: Office of Population Affairs, Office of Public Health and Science, Office of the Secretary, DHHS.

ACTION: Notice; correction.

SUMMARY: The Office of Population Affairs, OPHS, HHS published a notice in the **Federal Register** of Tuesday, April 11, 2006, announcing the availability of funds for one family planning general training and technical assistance grant. This notice contained an error. Language related to the review and selection process was not included. This Notice corrects the omission of the language related to collaborative selection of a grantee by the Regional Health Administrator, the Director, Office of Family Planning, and the Deputy Assistant Secretary for Population Affairs.

FOR FURTHER INFORMATION CONTACT: Susan B. Moskosky, 240–453–2888.

Correction

In the **Federal Register** of April 11, 2006, FR Doc. E6–5262, on page 18337, column 1, last paragraph, correct the first sentence to read as follows:

Final award decisions will be made collaboratively by the Regional Health Administrator (RHA) for PHS Region VI, in consultation with the Director, OFP and the Deputy Assistant Secretary for Population Affairs (DASPA).

Dated: May 1, 2006.

Susan B. Moskosky,

Director, Office of Family Planning, Office of Population Affairs.

[FR Doc. E6–6919 Filed 5–5–06; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Evaluation of the Project Rehabilitation and Restitution Program (OMB No. 0930–0248)—Revision

The Rehabilitation and Restitution initiative of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment seeks to reduce recidivism and increase psychosocial functioning and pro-social lifestyle among substance abusing offenders that have pled to or been convicted of a single felony. Hypotheses of the study are that providing intensive, long-term case management services will facilitate a pro-social lifestyle leading to higher rates of sealing or expunging of criminal records and that the prospect of stigma reduction provided by a sealed criminal record will motivate offenders to remain crime and drug free in order to achieve a felony-free criminal record.

The project consists of (1) providing technical assistance to develop and implement an enhanced model for case management services, and (2) evaluating of the effectiveness of the case management model in increasing the number of people that have their records sealed or maintain eligibility to have their records sealed. The study is confined to jurisdictions with statutes permitting records to be sealed within the remaining three-year parameters of the study. Two counties in Ohio, one involving an urban setting (Cuyahoga county which includes the city of Cleveland) and the other a rural setting (Clermont county adjacent to Northern Kentucky) were awarded by SAMHSA in 2002 in response to the original SAMHSA Request for Applications (RFA).

Target populations, drawn from Cuyahoga and Clermont County Court of Common Pleas Probation Departments, are first-time felons that are eligible to have their felony records sealed, have a diagnosis of substance dependence or abuse, and will receive case management services, including treatment referral, through each County's Treatment Accountability for Safer Communities (TASC) agency.

Technical assistance to participating counties is provided to (1) develop a strengths-based case management model designed to increase the proportion of offenders that achieve record expungement or maintain eligibility to have their felony records sealed, and (2) involve the various stake holders, such as case managers, probation officers and administrators, prosecutors, public defenders, judges, and treatment providers in the implementation of the case management model. A formative evaluation provides feedback on the implementation of the program. A systems evaluation examines the services offered to the felons, and changes in attitudes towards sealing records on the part of critical stakeholders, such as prosecutors, judges and service providers, and criminal justice systemic evolution. An outcomes evaluation examines the effect of the case management model on maintaining eligibility to have records sealed, and social, psychological and

health status, HIV risk behavior, and the proportion of subjects who have their records sealed.

In Cuyahoga County a longitudinal study examines two groups of randomly assigned subjects: An intent-to-treat, experimental group participates in a strengths-based case management model during the first six months of a one-year period of judicial supervision followed by three years of outreach services availability through a faith-based community organization; and a control group receives treatment as usual, consisting of the regular TASC case management model now in place with no outreach service availability. Each group is stratified by Standard Court Referral (SCR), *i.e.*, convicted first-time felons that must remain crime-free for three years after release from probation to maintain eligibility to apply for expungement; and Felony Diversion Referral (FDR), *i.e.*, first-time felons whose guilty pleas are held for one year pending successful completion of treatment and probation when the case may be expunged. The evaluation procedures consist of a baseline interview and follow-up interviews over a 4-year period that track outcomes to the point at which most subjects would be eligible to apply for sealing of records. Follow-up interviews and file studies test for a wide array of possible effects, including recidivism, employment, education, drug use, family relationships, support of children, mental and physical health, HIV/AIDS risk factors, assumption of personal responsibility, life adjustment factors, and program costs.

In Cuyahoga the evaluation has recruited 645 participants who have volunteered to participate for the four-year period. Evaluation interviews take place at baseline, 6 months, 12 months, 24 months, and 36 months.

The 24-month interview is an additional interview point to the original OMB approval because it enriches the study by providing data covering the critical first year an offender is off supervision. The additional interview does not increase the burden because the original OMB approval provided for 150 more participants in Cuyahoga and also did not provide for attrition at follow-up. Because a 36-month interview point provides a final interview for all participants before project end date, it replaces the 42-month interview point. The PRR baseline interview included 997 variables. Six-month and twelve-month follow-ups were increased to 1100 variables in order to collect client clinical experience data. Twenty-four and thirty-six month interviews are further increased to 1184 variables in order to measure perception and effect on participants of stigma reduction provided through the elimination of felony records.

Each interview lasts 1 to 2 hours depending on the memory and speed of the respondents. The interview goal is a minimum 80% follow-up completion rate. During the first two years of follow-up both 6- and 12-month rates exceeded 85%. Interview data is supplemented by file studies of arrest records, including the number of participants maintaining sealing eligibility, and the number of criminal records expunged. Additionally, two focus groups of clients receiving strengths-based services will be conducted in each county at 3, 6, 12, 18, 24, and 30 months to provide feedback on client perceptions. Groups will consist of clients both in compliance and not in compliance and of case managers for both experimental and control groups. Groups will consist of 8 to 12 participants chosen at random. Additional file study data will be gathered on the number of case management sessions and the number and frequency of other interventions in the intent-to-treat and control groups. In Clermont County the first-time felon pool is of insufficient size to support an evaluation design with experimental and control groups; however, because the first-time felony substance-abusing population presents unique demographics for analysis, *e.g.* rural, Caucasian, and greater percentage of females, examining the relationship of case management and motivation for stigma reduction is important. In Clermont, 150 first-time felons will participate in a strengths-based case management model and complete the evaluation instrument at baseline, 6-, 12, and 24-month points. Because the recruitment window was wider than in Cuyahoga, Clermont participants will not complete a 36-month instrument. A case study, including client, key informant, focus group and file data, will report the Clermont experience.

This OMB revision provides for conclusion of data collection by way of 24- and 36-month participant interviews, 24- and 30-month participant focus groups, case manager focus groups, and electronic files that will inform the Program Restitution and Rehabilitation Evaluation.

Data collection	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Cuyahoga Follow-up Battery: 24- & 36 month	874	1	1.85	1617
Clermont Follow-up Battery: 24-month	90	1	1.85	167
Client Focus Groups: Cuyahoga @ 24- & 30-month	120	1	1.50	180
Electronic File Data: MCSIS (1), Probation (2) CISAI (1), TASC (1)	5	2	4.00	40
Quality Assurance (Tx Staff) Multimodality Quality Assurance (MQA)	6	1	.75	5
Stakeholders.				
Attitudes Towards Sealing Records	18	2	.08	3
Cuyahoga and Clermont Focus Groups	18	2	1.50	45
Case Manager Focus Groups	15	6	1.50	135
Total Burden	1146			2192
3-Year Annual Average	349			731

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 28, 2006.

Anna Marsh,

Director, Office of Program Services.

[FR Doc. E6–6904 Filed 5–5–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2006–0017]

Privacy Act of 1974: System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it proposes to add a new system of records to its inventory of record systems for Department of Homeland Security General Training Records.

DATES: Comments must be received on or before June 7, 2006.

ADDRESSES: You may submit comments, identified by docket number DHS–2006–0017, by one of the following methods:

Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Fax: (571) 227–4171 (This is not a toll-free number).

Mail: Maureen Cooney, Acting Chief Privacy Officer, DHS Privacy Office, Mail Stop C–3, 601 S. 12th Street, Arlington, VA 22202–4220.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change and may be read at *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, by telephone (571) 227–3813 or facsimile (571) 227–4171.

SUPPLEMENTARY INFORMATION: Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–296, section 1512, 116 Stat. 2310 (Nov. 25, 2002), the Department of Homeland Security (DHS) and its components and offices have relied on preexisting Privacy Act systems of records notices for the maintenance of records that concern training of current and former Departmental employees, contractors, and other individuals. *See, e.g.,* CS.238, Customs Service Training and Career Individual Development Plans and C.239, Customs Service Training Records, last published on October 18, 2001 at 66 FR 2984.

As part of its efforts to streamline and consolidate its record systems, DHS is establishing a new agency-wide system of records under the Privacy Act (5 U.S.C. 552a) for the Department of Homeland Security (DHS) General Training Records. This record system will allow all component parts of DHS to collect and preserve training records under one centralized system. The system will consist of both electronic and paper records and will be used by DHS and its components and offices to maintain records about individual training, including enrollment and participation information, information pertaining to class schedules, programs, and instructors, training trends and needs, testing and examination materials, and assessments of training efficacy. The data will be collected by employee name or other unique personal identifier. The collection and maintenance of this information will assist DHS in meeting its obligation to train its personnel, contractors, and others in order to ensure that the agency mission can be successfully accomplished.

The Privacy Act embodies Fair Information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR 5.21.

The Privacy Act requires that each agency publish in the **Federal Register** a description denoting the type and character of each system of records in order to make agency recordkeeping practices transparent, to notify individuals about the use to which personally identifiable information is put, and to assist the individual to more easily find files within the agency.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this revised system of records to the Office of Management and Budget and to the Congress.

System of Records

DHS/AII–003

SYSTEM NAME:

Department of Homeland Security General Training Records.

SECURITY CLASSIFICATION:

Unclassified; sensitive.

SYSTEM LOCATION:

Records are maintained at several Headquarters locations and in component offices of the Department of Homeland Security, in both Washington, DC and field locations.

This system of records will cover:

1. Any individual who is or has been an employee of DHS and who has applied for, participated in or assisted with a training program;

2. Any other Federal employee or private individual, including contractors and others, who has participated in or assisted with training programs recommended, sponsored or operated by the Department of Homeland Security.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Homeland Security Act of 2002, Public Law 107–296, 6 U.S.C. 121; Federal Records Act, 44 U.S.C. 3101; 6 CFR Part 5; 5 U.S.C. app. 3; 5 U.S.C. 301 and Ch. 41; Executive Order 11348, as amended by Executive Order 12107; and Executive Order 9397 (SSN).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of DHS, volunteers and contractors; other participants in training programs, including instructors, course developers, observers, and interpreters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes all records pertaining to training, including nomination forms; registration forms; course rosters and sign-in sheets; instructor lists; schedules; payment records, including financial, travel and related expenditures; examination and testing materials; grades and student evaluations; course and instructor critiques; equipment issued to trainees and other training participants; and other reports pertaining to training. Names and social security numbers are included in these records. Records of individuals who apply for but are not

accepted for training may also be included in this system.

PURPOSE:

This record system will collect and document training given to DHS employees, contractors and others. It will provide DHS with a means to track the particular training that is provided, identify training trends and needs, monitor and track the expenditure of training and related travel funds, schedule training classes and programs, schedule instructors, track training items issued to students, assess the effectiveness of training, identify patterns, respond to requests for information related to the training of DHS personnel and other individuals, and facilitate the compilation of statistical information about training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. When a record, either on its face on in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil or administrative, the relevant records may be referred to an appropriate Federal, State, territorial, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting such a violation or enforcing or implementing such law.

B. To a Federal, State, tribal, local or foreign government agency or professional licensing authority in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance or status of a license, grant, or other benefit by the requesting entity, to the extent that the information is relevant and necessary to the requesting entity's decision on the matter.

C. To the news media and the public where there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

D. To the National Archives and Records Administration or other federal government agencies in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

E. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

F. To the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) DHS, or (b) any employee of DHS in his/her official capacity, or (c) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that disclosure is relevant and necessary to the litigation.

G. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

H. To educational institutions or training facilities for purposes of enrollment and verification of employee attendance and performance.

I. To an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

J. To the Equal Employment Opportunity Commission, Merit Systems Protection Board, Office of the Special Counsel, Federal Labor Relations Authority, or Office of Personnel Management or to arbitrators and other parties responsible for processing any personnel actions or conducting administrative hearings or appeals, or if needed in the performance of authorized duties.

K. To the Department of Justice or a consumer reporting agency for further action on a delinquent debt when circumstances warrant.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities. The records are stored on magnetic disc, tape, digital media, and CD–ROM, and may also be retained in hard copy format in secure folders.

RETRIEVABILITY:

Data may be retrieved by the individual's name, Social Security Number, other personal identifier.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access the system.

RETENTION AND DISPOSAL:

Records are maintained and disposed in accordance with National Archives and Records Administration General Records Schedule, No. 1.

SYSTEM MANAGER(S) AND ADDRESS:

The records are maintained at the Headquarters offices of the Department of Homeland Security in Washington, DC and in component offices located in Washington and elsewhere.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing to the DHS Privacy Officer at the U.S. Department of Homeland Security, Privacy Office, Arlington, Virginia 22202 or to the respective DHS component or office where the records are maintained.

RECORD ACCESS PROCEDURE:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above.

Information contained in the records is obtained from employees, contractors, volunteers and others and from government and non-government organizations and individuals that provide training to agency employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records in this system may be exempt on the basis of 5 U.S.C. 552a(k)(6) in order to preserve the

objectivity and fairness of testing and examination material.

Dated: April 28, 2006.

Maureen Cooney,

Acting Chief Privacy Officer.

[FR Doc. E6–6809 Filed 5–5–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–23422]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number 1625–0073

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Request (ICR), abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. The ICR is 1625–0073, Alteration of Unreasonably Obstructive Bridges under the Truman-Hobbs (T–H) Act. The ICR describes information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before June 7, 2006.

ADDRESSES: To make sure that your comments and related material do not reach the docket [USCG–2005–23422] or OIRA more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th St., NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at (202) 493–2298 and (b) OIRA at (202) 395–6566, or e-mail to OIRA at *oira-docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web site for the Docket Management System (DMS) at *http://dms.dot.gov*. (b) OIRA does not have a Web site on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR is available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Ms. Barbara Davis, CG–61, Jemal Bldg.), 2100 2nd Street SW., Washington, DC 20593–0001. The telephone number is (202) 475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone (202) 475–3523 or fax (202) 475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to DMS or OIRA must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, [USCG 2005–23422]. For your comments to OIRA to be considered, it is best if OIRA receives them on or before June 7, 2006.

Public participation and request for comments: We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*, and they will include any personal information you have provided. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2005–23422], indicate the specific section of this document or the ICR to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**, but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard and OIRA will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has already published the 60-day notice (70 FR 77169, December 29, 2005) required by 44 U.S.C. 3506(c)(2). That notice elicited no comment.

Information Collection Request

Title: Alteration of Unreasonably Obstructive Bridges Under the Truman-Hobbs (T–H) Act.

OMB Control Number: 1625–0073.

Type of Request: Extension of a currently approved collection.

Affected Public: Public and private owners of bridges over navigable waters of the United States.

Forms: No forms associated with this collection.

Abstract: The collection of information is a request to determine if the bridge is unreasonably obstructive.

Burden Estimate: The estimated burden has increased from 120 hours to 200 hours a year.

Dated: May 1, 2006.

R. T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E6–6917 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information; Comment Request.

ACTION: 30-Day Notice of Information Collection under Review: Application for Benefits Under the Family Unity Program; Form I–817; OMB Control No. 1615–0005.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on February 28, 2006 at 71 FR 10053. The notice allowed for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 7, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0005. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Benefits Under the Family Unity Program.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–817. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR Part 245A, Subpart C.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 40,000 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 80,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529, (202) 272–8377.

Dated: May 3, 2006.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E6–6918 Filed 5–5–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications and proposed incidental harassment authorization; request for comments.

SUMMARY: The Fish and Wildlife Service (Service) has received requests from Shell Offshore, Inc. (Shell), ConocoPhillips Alaska, Inc. (CPAI), and GXT Houston (GXT) for authorizations to take small numbers of marine mammals by harassment incidental to conducting open-water seismic operations in the Chukchi Sea. In accordance with provisions of the Marine Mammal Protection Act (MMPA), as amended, the Service requests comments on its proposed authorization for the operators identified above to incidentally take, by harassment, small numbers of Pacific walrus and polar bears in the Chukchi Sea area between June 1, 2006, and November 30, 2006.

DATES: Comments and information must be received by June 7, 2006.

ADDRESSES: You may submit comments by any of the following methods:

1. By mail to: Craig Perham, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.

2. By fax to: 907–786–3816.

3. By electronic mail (e-mail) to: *FW7MMM@FWS.gov.* Please submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your

message. If you do not receive a confirmation from the system that we have received your message, contact us directly at U.S. Fish and Wildlife Service, Office of Marine Mammals Management, 907–786–3810 or 1–800–362–5148.

4. By hand-delivery to: Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503.

5. Through the Federal E-rulemaking Portal at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Craig Perham, Office of Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503; telephone 907–786–3810 or 1–800–362–5148; or e-mail *craig_perham@FWS.gov*.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, as amended, (16 U.S.C. 1371 (a)(5)(A) and (D)) authorize the Secretary of the Interior to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region provided that certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review and comment.

Authorization to incidentally take marine mammals may be granted if the Service finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. Permissible methods of taking and other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings are prescribed as part of the authorization process.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Harassment, as defined by the MMPA, means ''any act of pursuit, torment, or annoyance which, (i) has the potential to injure a marine mammal or marine mammal stock in the wild [the MMPA calls this Level A harassment], or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [the MMPA calls this Level B harassment].''

The terms ''small numbers,'' ''negligible impact,'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Small numbers'' is defined as ''a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.'' ''Negligible impact'' is defined as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' ''Unmitigable adverse impact'' is defined as ''an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals where the take will be limited to harassment. Section 101(a)(5)(D)(iii) establishes a 45-day time limit for Service review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, the Service must either issue or deny issuance of the authorization. The Service refers to these authorizations as Incidental Harassment Authorizations (IHAs).

Summary of Request

On January 13, 2006, the Service received an application from Shell for the taking by harassment of Pacific walrus and polar bears incidental to conducting a seismic survey in the Chukchi Sea. Shell proposes to conduct a marine geophysical (deep seismic) survey program in support of future oil and gas exploration within the proposed Chukchi Sea Lease Sale 193. Leasing will occur in 2007. This activity is part of a comprehensive seismic program that includes conducting seismic operations in the Beaufort Sea as well. Incidental take authorization for the Beaufort Sea portion of Shell's program has been proposed under new regulations being proposed at 50 CFR part 18, subpart J (71 FR 14446; March 22, 2006). This overall seismic program is planned for the 2006 open-water season. Shell expects to conduct operations in the Chukchi Sea between July 15 and November 30, 2006. Scheduled transit time for Shell to the operational area is planned to begin June 15, 2006.

On February 10, 2006, the Service received an application from CPAI for the taking by harassment of Pacific walrus and polar bears incidental to conducting a seismic survey in the Chukchi Sea. CPAI also plans to conduct a deep seismic survey program in support of future oil and gas exploration within the proposed Chukchi Sea Lease Sale 193. CPAI plans to operate their seismic program between July 1 and November 30, 2006. Scheduled transit time for CPAI to the operational area is planned to begin June 1, 2006.

On February 10, 2006, the Service also received an application from GXT for the taking by harassment of Pacific walrus and polar bears incidental to conducting a seismic survey program in the Chukchi Sea in support of oil and gas exploration. Their seismic program is scheduled to occur between July 1 and November 30, 2006. GXT's project area includes portions of the Lease Sale 193 area as well as areas outside the lease sale but, within the Chukchi Sea.

All applicants are requesting authorization for incidental take by harassment of Pacific walrus and polar bear during seismic surveys occurring in various portions of the Chukchi Sea. Although the applicants' seismic survey programs have minor differences, such as in type (*i.e.*, 2D and 3D), size of arrays, locations, timing, and support, the Service is consolidating the analysis of these separate requests because the activities are substantially the same in nature and the general area of operation requested by the applicants is identical. This also ensures that any overlapping of the effects of these programs will be identified and considered.

Description of the Activity

Shell Offshore, Inc.

Shell and its geophysical (seismic) contractor WesternGeco propose to conduct a deep seismic survey program during the 2006 open-water season on various U.S. Minerals Management Service (MMS) Outer Continental Shelf (OCS) lease blocks in the Northern Chukchi Sea (within Lease Sale 193).

Shell is requesting an IHA for approximately 5.5 months (June 15 through mid-to late-November 2006). This seismic program would consist of deep seismic surveys conducted from WesternGeco's vessel M/V Gilivar and supported by the M/V Kilabuk for resupply and fueling. The M/V Gilivar is also capable of assisting in ice management operations if needed, but will not deploy seismic acquisition gear.

The general geographic region where the proposed deep seismic survey would occur is the Chukchi Sea MMS OCS Program Area designated as Chukchi Sea Lease Sale 193 and the proposed 2002–2007 Chukchi Sea Program Area. Shell has stated that, since the Chukchi deep seismic program would be conducted as a pre-lease activity, the exact locations where operations would occur remain confidential for business competitive reasons. Shell would use the seismic data acquired to determine what leases it would bid on in a forth-coming competitive lease sale. However, seismic acquisition would take place well offshore from the Alaska coast in OCS waters averaging greater than 40 meters (m) (130 feet [ft]) in depth.

Shell has proposed two possible survey scenarios in an effort to maximize its opportunities to acquire seismic information in 2006. Scenario I involves conducting seismic operations in the Chukchi and Beaufort seas during the 2006 open-water season. Scenario II involves conducting seismic operations only in the Chukchi Sea during the 2006 open-water season. Authorization for incidental take regarding the proposed seismic operations in the Beaufort Sea under Scenario I will be addressed in a separate request to the Service for a Letter of Authorization.

Under Scenario I, deep seismic surveys in the Chukchi Sea would take place in two phases. Phase one would commence after June 15, 2006, as sea ice coverage conditions allow and would continue through July to early August 2006. Phase two of the Chukchi Sea deep seismic survey would occur after mid-October and continue until such time as sea ice and weather conditions preclude further work, probably sometime in mid-to late-November 2006. Sea ice in this area is dynamic, therefore, the dates represent what might occur under ideal conditions for performing marine seismic work. The actual dates would depend on sea ice and weather conditions as they occur in summer and mid-autumn of 2006 and will not extend beyond the period identified here. Deep seismic data acquisition requires ice-free conditions for air gun and hydrophone streamer deployment and operation; thus both phases of the 2006 deep seismic program would have to occur during ice-free sea conditions. Also, the proposed commencement of the deep seismic survey would not occur earlier than June 15, 2006, even if marine conditions allow, since the timing is designed to ensure that there would be no conflict with the spring bowhead whale migration and the spring Chukchi subsistence hunts conducted by the Alaskan coastal villages of Point Hope, Wainwright, and Barrow.

Under Scenario II, in the event that sea ice prevents travel to the Beaufort Sea area by early August, Shell would continue its seismic acquisition program through the entire open-water season in the Chukchi Sea (June 15 through mid-to late-November 2006). This scenario would approximately double the seismic line miles completed in the Chukchi Sea. Under Scenario I, approximately 5,556 kilometers (km) (3,000 nautical miles [nm]) of seismic acquisition would occur in the Chukchi Sea, whereas under Scenario II, approximately 11,112 km (6,000 nm) of seismic line miles could be completed in the Chukchi Sea during the open-water season if operations in the Beaufort Sea were cancelled.

Source arrays for the 3D survey would be composed of identically tuned Bolt gun sub-arrays operating at 2,000 pounds per square inch (psi) air pressure. The signature produced by an array composed of multiple sub-arrays has the same shape as that produced by a single sub-array while the overall acoustic output of the array is determined by the number of sub-arrays employed. The gun arrangement for the 1,049 cubic inches (in^3) sub-array is detailed in Shell's application and is composed of three sub-arrays comprising a total 3,147 (in^3) sound source.

ConocoPhillips Alaska, Inc.

CPAI is planning to conduct open-water seismic data acquisition in the Chukchi Sea during the 2006 open-water season. CPAI seeks an IHA for a period of 5 months (July 1 through November 30, 2006). Mobilization of operations will occur in mid-July, and seismic operations are proposed to begin in late July and end in November, depending on ice conditions.

The scope of this application is limited to seismic exploration activities during the open-water season in Federal waters in the OCS of the Chukchi Sea, offshore Alaska. The geographic region of activity encompasses an area of 2,500 to 3,600 square (sq) km in the northeastern Chukchi Sea. The approximate boundaries of the region are within 158°00′ W and 169°00′ W and 69°00′ N and 73°00′ N, with the eastern boundary located parallel to the coast of Alaska, north of Point Hope to Point Barrow, and ranging 40–180 km off the coast. The nearest approximate point of the project to Point Hope is 74 km, Point Lay 90 km, Wainwright 40 km, and Barrow 48 km. Water depths are typically less than 50 m.

The goal of the project is to gather seismic data over 2,500 to 3,600 sq km, weather and ice conditions permitting. CPAI anticipates approximately 90–100 days of work effort with about 30 percent downtime due to constraints, such as weather, ice conditions, and repairs. The operation would be active 24 hours per day. The seismic vessel currently planned for use is the M/V Patriot, owned by WesternGeco. In addition to the primary activity of the seismic vessel, there would be two support vessels. A supply vessel and a fuel bunkering vessel would be used to supply the seismic vessel. The seismic crew would change out by helicopter, and fixed-wing aircraft support may be used to assess ice conditions if necessary.

The energy source for the proposed activity would be air gun array systems towed behind the vessel. There would be 6 to 8 cables approximately 4,000 m in length spaced 100 m apart. Each source array consists of identically tuned Bolt gun sub-arrays operating at 2,000 psi air pressure. The arrays will fire on interleaved 50-m intervals that are designed to focus energy in a downward direction. Two air-gun arrays, each approximately 1,695 in^3 in size and spaced approximately 50 m apart, would be used. Together, the two arrays would be approximately 3,390 in^3 in size. The airgun array would fire approximately every 25 m as the vessel travels at 4 to 5 knots. The sub-array is composed of six tuning elements: two 2-gun clusters and four single guns. The clusters have component guns arranged in a fixed side-by-side fashion with the distance between the gun ports set to maximize the bubble suppression effects of clustered guns. A near-field hydrophone is mounted about 1 m above each gun station (one phone is used per cluster), one depth transducer per position is mounted on the gun's ultrabox, and a high pressure transducer is mounted at the aft end of the sub-array to monitor high pressure air supply. All data from the sensors are transmitted to the vessel for input into the onboard systems and recording to tape.

GXT Corporation

GXT will conduct a marine seismic survey in the area of the MMS Lease Sale 193 in the Chukchi Sea. GXT expects the seismic vessel M/V Discoverer II to arrive at Dutch Harbor, Alaska, on or about June 15, 2006, for crew change and re-supply. Depending on ice conditions in the Chukchi Sea, the vessel would mobilize to arrive off Cape Lisburne and begin seismic acquisition as soon as possible. The expected starting date is on or about July 1, 2006.

There are two scenarios being planned dependant upon the seasonal ice conditions encountered in 2006. The primary scenario (and most expected) entails operations beginning in the Chukchi Sea until passage along the Beaufort Sea opens enough to allow seismic acquisition across the entire coast. The vessel would then proceed out of the Chukchi and begin operations within the Beaufort Sea area. Seismic acquisition could begin as early as July 21. The vessel would continue operations until all data are collected, or the new ice begins forming in the fall. It is then expected that the vessel would exit the Beaufort and complete any lines left in the Chukchi Sea until either the program is complete or weather and sea ice preclude further work. The open-water season is not expected to extend past November 30, 2006.

The second scenario would be enacted only if the sea ice does not move offshore in the Beaufort Sea and adequate areas of open water do not exist to allow collection of seismic data in the planned area. In that case, the vessel would continue operations in the Chukchi Sea until all programmed lines are collected. The vessel would then exit the area and transits to Dutch Harbor to demobilize.

GXT will gather data in the Chukchi Sea with the use of ultra-deep 2D lines that oil and gas companies use to better evaluate the evolution of the petroleum system at the basin-level, including identifying source rocks, migration pathways, and play types. In many cases, the availability of geoscience data will extend beyond seismic information to include magnetic, gravity, well log, and electromagnetic information, helping to illustrate the most comprehensive picture of the subsurface as possible.

The 2D data will be collected utilizing a towed, single streamer up to 9,000 m in length along with an airgun array towed directly behind a single vessel. The source vessel will tow a 40 G. gun array with a total discharge volume of 3,980 in^3 along predetermined lines. The airgun array is discharged on a periodic basis and the streamer records the reflected sound waves. Since the goal is to record data from deep in the subsurface, the recording period runs from 15 to 18 seconds, depending on the area, with the airgun array being discharged approximately every 20 seconds. The array will be towed at approximately 50 m from the stern of the *Discoverer II* at a depth of approximately 8.5 m. As the airgun array is towed along the survey line, the towed hydrophone array receives the reflected signals and transfers the data to the on-board processing system. The 40 G. gun array will consist of 48 G. guns (24 × 2-G. gun pairs). Eight of those guns will not be activated but, will be included in the array and available as spare guns.

The vessel will proceed down a pre-plotted line collecting the data on a continuous basis until the required line is complete. Several segments of the single line may be required due to instrument failure, weather, or any other interruption that may occur. The grid of lines proposed by the applicant covers the entire Chukchi Sea area and ties together known wells, core locations, fault lines, and other geophysical points of interest.

The GXT seismic program will consist of 14 lines totaling 5,793 km (3,570 statute miles) of data acquisition for the Chukchi Sea area. The program will be based on a large grid of lines orientated to connect previous well locations, core sample locations, and geological structures in the sub-surface. Lines will be chosen based on factors such as, subsistence hunting, ice movement, and areas of geophysical importance. It is anticipated that all lines would be acquired under either of the two scenarios proposed. There is no plan to add mileage to this total, so the season would be complete for the Chukchi region when all 14 lines have been acquired.

Description of Habitat, Marine Mammals Affected by the Activity, and the Impact on Affected Marine Mammals

The geographic area covered by the request is the OCS of the Chukchi Sea adjacent to western Alaska. This area includes the waters and seabed of the Chukchi Sea, which encompasses all waters north of the Bering Strait that are east of the U.S.-Russia Convention Line of 1807, west of a north-south line at Point Barrow, and within 200 miles to the north of Point Barrow. This delineation of the Chukchi Sea includes the Chukchi Seas Lease Sale 193, scheduled for leasing in 2007.

Biological Information

Pacific Walrus

Stock Definition and Range

The Pacific walrus (*Odobenus rosmarus divergens*) is represented by a single stock of animals that inhabits the shallow continental shelf waters of the Bering and Chukchi seas. The population ranges across the international boundaries of the United States and Russia, and both nations share common interests with respect to the conservation and management of this species.

The distribution of Pacific walrus varies markedly with the seasons. During the late winter breeding season, walrus are found in areas of the Bering Sea where open leads, polynas, or areas of broken pack-ice occur. Significant winter concentrations are normally found in the Gulf of Anadyr, the St. Lawrence Island Polyna, and in an area south of Nunivak Island. In the spring and early summer, most of the population follows the retreating pack-ice northward into the Chukchi Sea; however, several thousand animals, primarily adult males, remain in the Bering Sea, utilizing coastal haulouts during the ice-free season. During the summer months, walrus are widely distributed across the shallow continental shelf waters of the Chukchi Sea. Significant summer concentrations are normally found in the unconsolidated pack-ice west of Point Barrow, and along the northern coastline of Chukotka in the vicinity of Wrangel Island. As the ice edge advances southward in the fall, walrus reverse their migration and re-group on the Bering Sea pack-ice.

Population Status

Several decades of intense commercial exploitation in the late 1800s and early 1900s left the population severely depleted. Fay *et al.* (1997) reviewed the results of aerial surveys conducted between 1960 and 1985 and concluded that the population had increased from 50,000–100,000 animals in the late 1950s to more than 250,000 animals by 1985. They attributed this rapid population growth to hunting restrictions enacted in the United States and Russia that reduced the size of the commercial harvest and provided protection to female walrus and calves. Information concerning population size and trend after 1985 is less certain. An aerial survey flown in 1990 produced a population estimate of 201,039 animals; however, large confidence intervals associated with that estimate precluded any conclusions

concerning population trend (Gilbert *et al.* 1992). The current size and trend of the Pacific walrus population are unknown, but the 1990 figure is considered conservative. In 2006, the Service and USGS, in partnership with Russian scientists, will conduct a range-wide survey to estimate population size.

Habitat and Prey

Walrus rely on floating pack-ice as a substrate for resting and giving birth. Walrus generally require ice thicknesses of 50 centimeters (cm) or more to support their weight. Although walrus can break through ice up to 20 cm thick, they usually occupy areas with natural openings and are not found in areas of extensive, unbroken ice. Thus, their concentrations in winter tend to be in areas of divergent ice flow or along the margins of persistent polynas. Concentrations in summer tend to be in areas of unconsolidated pack-ice, usually within 100 km of the leading edge of the ice pack. The juxtaposition of ice over appropriate depths for feeding is especially important for female walrus with dependent young that may not be capable of deep diving or of long-term exposure in the water. Walrus resting on the ice are passively transported to other feeding areas, which may help to prevent local depletions of their prey resource.

When suitable pack-ice is not available, walrus haul out to rest on land. Isolated sites, such as barrier islands, points, and headlands, are most frequently occupied. Social factors, learned behavior, and proximity to their prey base are also thought to influence the location of haulout sites. Traditional walrus haulout sites in the eastern Chukchi Sea include Cape Thompson, Cape Lisburne and Icy Cape. In recent years, the Cape Lisburne haulout site has seen regular use in late summer. Numerous haulouts exist along the northern coastline of Chukotka, including Wrangel and Herald islands, which are considered important hauling grounds in September, especially in years when the pack-ice retreats far to the north.

Although capable of diving to deeper depths, walrus are for the most part found in shallow waters of 100 m or less, possibly because of higher productivity of their benthic foods in shallower water. They feed almost exclusively on benthic invertebrates although Native hunters have also reported incidences of walrus preying on seals. Prey densities are thought to vary across the continental shelf according to sediment type and structure. Preferred feeding areas are typically composed of sediments of soft, fine sands. Foraging trips may last for several days, during which time they dive to the bottom nearly continuously. Most foraging dives to the bottom last between 5 and 10 minutes, with a relatively short (1–2 minute) surface interval. The intensive tilling of the sea floor by foraging walrus is thought to have significant influence on the ecology of the Bering and Chukchi Seas. Foraging activity recycles large quantities of nutrients from the sea floor back into the water column, provides food for scavenger organisms, and contributes greatly to the diversity of the benthic community.

Life History

Walrus are long-lived animals with low rates of reproduction. Females reach sexual maturity at 4–9 years of age. Males become fertile at 5–7 years of age; however, they are usually unable to compete for mates until they reach full physical maturity at 15–16 years of age. Breeding occurs between January and March in the pack-ice of the Bering Sea. Calves are usually born in late April or May the following year during the northward migration from the Bering Sea to the Chukchi Sea. Calves are capable of entering the water shortly after birth, but tend to haulout frequently, until their swimming ability and blubber layer are well developed. Calves weigh about 63 kg (139 lb) at birth. Walrus calves accompany their mother from birth and are usually not weaned for 2 years or more. Females with newborn young often join together to form large nursery herds. Summer distribution of females and young walrus is closely tied to the movements of the pack-ice relative to feeding areas. Females give birth to one calf every two or more years. This reproductive rate is much lower than other pinnipeds; however, some walrus may live to age 35–40 and remain reproductively active until relatively late in life.

Walrus are extremely social and gregarious animals. They tend to travel in groups and haulout onto ice or land in groups. Walrus spend approximately one-third of their time hauled out onto land or ice. Hauled-out walrus tend to lie in close physical contact with each other. Youngsters often lie on top of the adults. The size of the hauled out groups can range from a few animals up to several thousand individuals.

Mortality

Polar bears (*Ursus maritimus*) are known to prey on walrus calves, and killer whales (*Orcinus orca*) have been known to take all age classes of animals. Predation levels are thought to be highest near terrestrial haulout sites where large aggregations of walrus can be found; however, few observations exist for off-shore environs.

Pacific walrus have been hunted by coastal Natives in Alaska and Chukotka for thousands of years. Exploitation of walrus by Europeans has also occurred in varying degrees since first contact. Presently, walrus hunting in Alaska and Chukotka is restricted to meet the subsistence needs of aboriginal peoples. The Service, in partnership with the Eskimo Walrus Commission (EWC) and the Association of Traditional Marine Mammal Hunters of Chukotka, administers subsistence harvest monitoring programs in Alaska and Chukotka. Harvest mortality over the past 5 years (2000–2005) is estimated at 5,458 walrus per year (Table 1). This mortality estimate includes corrections for under-reported harvest and struck and lost animals.

Intraspecific trauma is also a known source of injury and mortality. Disturbance events can cause walrus to stampede into the water and have been known to result in injuries and mortalities. The risk of stampede-related injuries increases with the number of animals hauled out. Calves and young animals at the perimeter of these herds are particularly vulnerable to trampling injuries.

TABLE 1.—TOTAL CORRECTED SUBSISTENCE HARVEST OF PACIFIC WALRUS, 2001–2005

Year	Reported Russia harvest	Reported U.S. harvest*	Total reported harvest	Total corrected harvest**
2001	1,332	1,843	3,175	5,474
2002	1,317	2,236	3,553	6,126
2003	1,425	2,175	3,600	6,207
2004	1,118	1,481	2,599	4,481
2005	1,470	1,430	2,900	5,000

TABLE 1.—TOTAL CORRECTED SUBSISTENCE HARVEST OF PACIFIC WALRUS, 2001–2005—Continued

Year	Reported Russia harvest	Reported U.S. harvest*	Total reported harvest	Total corrected harvest**
Mean 2001–2005	1,332	1,833	3,165	5,458

* Corrected for non-compliance with the Marking, Tagging, and Reporting Program.
** Total corrected harvest = total reported harvest + 42 percent struck and lost (mortally wounded but not recovered).

Distributions and Abundance in the Chukchi Sea and Lease Sale 193 Area

Walrus are seasonably abundant in the Chukchi Sea and Lease Sale 193 Area. Their distribution is largely influenced by the extent of the seasonal pack-ice. In May and June, most of the population migrates through the Bering Strait into the Chukchi Sea. Walrus tend to migrate into the Lease Sale Area along lead systems that develop along the northwest coast of Alaska. Walrus are expected to be closely associated with the southern edge of the seasonal pack-ice during the proposed operating season. By July, large groups of walrus, up to several thousand animals, can be found along the edge of the pack-ice between Icy Cape and Point Barrow. During August, the edge of the pack-ice generally retreats northward to about 71°N, but in light ice years, the ice edge may retreat beyond 76°N. The sea ice normally reaches its minimum (northern) extent in September. It is unclear how walrus respond in years when the sea ice retreats beyond the relatively shallow continental shelf waters. At least some animals are thought to migrate west towards Chukotka, while others have been observed hauling out along the shoreline between Point Barrow and Cape Lisburne. The pack-ice rapidly advances southward in October, and most animals are thought to have returned to the Bering Sea by early November.

A recent abundance estimate for the number of walrus present in the Chukchi Sea, including the Lease Sale 193 Area during the proposed operating season is lacking. Johnson *et al.* (1980) estimated 101,213 walrus hauled-out onto Chukchi Sea pack-ice, east of 172°30′ W, in September 1980. Gilbert (1989) estimated 62,177 walrus were distributed in the Chukchi Sea pack-ice in the eastern Chukchi Sea in September 1985. Gilbert *et al.* (1992) estimated 16,489 walrus were distributed in the Chukchi sea pack-ice between Wrangel Island and Point Barrow in September 1990, but the authors also noted that the pack-ice was distributed well beyond the continental shelf at the time of the survey. These abundance estimates are all considered conservative because no corrections were made for walrus in water (not visible) at the time of the surveys.

Polar Bear

Stock Definition and Range

Polar bears occur throughout the Arctic. In Alaska, they have been observed as far south in the eastern Bering Sea as St. Matthew Island and the Pribilof Islands, but they are most commonly found within 180 miles of the Alaskan coast of the Chukchi and Beaufort Seas, from the Bering Strait to the Canadian border. Two stocks occur in Alaska: (1) The Bering-Chukchi Seas stock; and (2) the Southern Beaufort Sea stock. The Chukchi/Bering seas stock is defined as polar bears inhabiting the area as far west as the eastern portion of the Eastern Siberian Sea, as far east as Point Barrow, and extending into the Bering Sea, with its southern boundary determined by the extent of annual ice. The world population estimate of polar bears ranges from 20,000–25,000 individuals (International Union for the Conservation of Nature and Natural Resources 2006). The Southern Beaufort Sea stock estimate is 2,200 animals. Previous population estimates have put the Chukchi/Bering sea population at 2,000 to 5,000; however, currently, a reliable population estimate is not available for the Bering-Chukchi Sea polar bear stock.

Habitat

Polar bears of the Chukchi Sea are subject to the movements and coverage of the pack-ice. The most extensive north-south movements of polar bears are associated with the spring and fall ice movement. For example, during the 2006 ice-covered season, numerous bears radio-collared in the Beaufort Sea were located in the Chukchi and Bering Seas as far south as 59° latitude. Summer movements tend to be less dramatic due to the reduction of ice habitat. Summer distribution is somewhat dependent upon the location of the ice front; however, polar bears are accomplished swimmers and are often seen on floes separated from the main pack-ice. Therefore, bears can appear at any time in what can be called ''open water.'' The summer ice pack can be quite disjunct and segments can be driven by wind great distances carrying polar bears with them. Bears from both stocks overlap in their distribution around Point Barrow and can move into surrounding areas depending on ice conditions.

Polar bears spend most of their time in nearshore, shallow waters over the productive continental shelf associated with the shear zone and the active ice adjacent to the shear zone. Sea ice and food availability are two important factors affecting the distribution of polar bears.

Denning and Reproduction

Although insufficient data exist to accurately quantify polar bear denning along the Alaskan Chukchi Sea coast, dens in the area are less concentrated than for other areas in the Arctic. The majority of denning of Chukchi Sea polar bears occurs on Wrangel Island, Herald Island, and certain locations on the northern Chukotka coast. Females without dependent cubs breed in the spring. Females can initiate breeding at 5 to 6 years of age. Females with cubs do not mate. Pregnant females enter maternity dens by late November, and the young are usually born in late December or early January. Only pregnant females den for an extended period during the winter; other polar bears may excavate temporary dens to escape harsh winter winds. An average of two cubs are usually born, and after giving birth, the female and her cubs remain in the den where the cubs are nurtured until they can walk. Reproductive potential (intrinsic rate of increase) is low. The average reproductive interval for a polar bear is 3 to 4 years, and a female polar bear may produce about 8 to 10 cubs in her lifetime; 50 to 60 percent of the cubs will survive. Female bears can be quite sensitive to disturbances during this denning period.

In late March or early April, the female and cubs emerge from the den. If the mother moves young cubs from the den before they can walk or withstand the cold, mortality to the cubs may increase. Therefore, it is thought that successful denning, birthing, and rearing activities require a relatively

undisturbed environment. Radio and satellite telemetry studies elsewhere indicate that denning can occur in multi-year pack-ice and on land.

Prey

Greater than 90 percent of a polar bear's diet is ringed seals (*Phoca hispida*). Bearded seals (*Erignathus barbatus*) and walrus calves are hunted occasionally. Polar bears opportunistically scavenge marine mammal carcasses, and there are reports of polar bears killing beluga whales (*Delphinapterus leucas*) trapped in the ice. Polar bears are also known to eat nonfood items including styrofoam, plastic, antifreeze, and hydraulic and lubricating fluids.

Polar bears hunt seals along leads and other areas of open water, or by waiting at a breathing hole, or by breaking through the roof of a seal's lair. Lairs are excavated in snow drifts on top of the ice. Bears also stalk seals in the spring when they haul out on the ice in warm weather. The relationship between ice type and bear distribution is as yet unknown, but it is suspected to be related to seal availability.

Life History

Both fur and fat are important to polar bears for insulation in air and water. Cubs-of-the-year must accumulate a sufficient layer of fat in order to maintain their body temperature when immersed in water. It is unknown to what extent young cubs can withstand exposure in water before they are threatened by hypothermia. Polar bears groom their fur to maintain its insulative value. Polar bears are long-lived (up to 30 years) and have no natural predators, and they do not appear to be prone to death by diseases or parasites. Cannibalism by adult males on cubs and occasionally on other bears is known to occur.

Mortality

The most significant source of mortality is man. Before the MMPA was passed in 1972, polar bears were taken by sport hunters and residents. Between 1925 and 1972, the mean reported kill was 186 bears per year. Seventy-five percent of these were males, as cubs and females with cubs were protected. Since 1972, only Alaska Natives have been allowed to hunt polar bears for their subsistence uses or for handicraft and clothing items for sale. The Native hunt occurs without restrictions on sex, age, or number provided that the population is not determined to be depleted. From 1980 to 2005, the total annual harvest for Alaska averaged 101 bears: 64 percent from the Chukchi Sea and 36 percent from the Beaufort Sea. Barrow, Point Hope, Point Lay, and Wainwright are communities within the area potentially affected by seismic activities. The total harvest of bears by these communities during the 10-year period of 1995 to 2005 was as follows: Barrow (228 bears), Point Hope (136 bears), Point Lay (25 bears), and Wainwright (77 bears). Table 2 provides long-term and annual data on polar bear harvests for the villages within the area. Bears are generally harvested between the months of January to May, with May the month when most bears are harvested. Annually, the lowest numbers of polar bears are harvested between June and September.

TABLE 2.—NATIVE SUBSISTENCE POLAR BEAR HARVEST ESTIMATES BY YEAR AND VILLAGE

Village	1988–1999	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005
Barrow	238	28	25	25	20	10
Wainwright	88	10	2	5	13	5
Point Lay	21	1	1	1	3	4
Point Hope	155	15	9	12	10	9

Based upon USFWS polar bear harvest data. Harvest year extends from July 1 to June 30.

Potential Impacts of Operations and Associated Activities on Marine Mammals

Pacific Walrus

Seismic exploration activities in the Chukchi Sea have the potential to impact walrus in a number of ways. Air and vessel traffic may cause herds to stampede. Noise from air traffic, seismic surveys, icebreakers, and supply ships may displace individuals and herds. The quantity and quality of walrus prey could be affected by contamination of the benthos from operational petroleum spills.

Disturbances caused by vessel and air traffic may cause walrus groups to abandon land or ice haulouts. Severe disturbance events could result in trampling injuries or cow-calf separations, both of which are potentially fatal.

Open-water seismic exploration produces underwater sounds, typically with airgun arrays. Although the hearing sensitivity of walrus is poorly known, some source levels are thought to be high enough to cause temporary hearing loss in other species of pinnipeds. Therefore, it is possible that walrus within the 190-decibel (dB re 1 μPa) safety radius sound cone of seismic activities (Industry standard safety criterion for seals, which operates as the limit for potential injury) could suffer temporary shifts in hearing threshold and temporary hearing loss. Conversely, the 160-decibel (dB re 1 μPa) sound level is the limit of assumed behavioral harassment where animals may react to the sound source by avoiding the area.

Noise from air traffic, vessel traffic, and seismic operations resulting in harassment has the potential to disturb or displace walrus up to several kilometers from the sound source. Potential effects of prolonged or repeated disturbances include displacement from preferred feeding areas, increased stress levels, increased energy expenditure, masking of communication, and the impairment of thermoregulation of neonates that spend too much time in the water.

The response of walrus to noise disturbance stimuli is highly variable, from avoidance to tolerance. Studies have shown that pinnipeds appear to be less responsive to noise than other marine mammals. Anecdotal observations by walrus hunters and researchers suggest that males tend to be more tolerant of disturbances than females and individuals tend to be more tolerant than groups. Females with dependent calves are considered least tolerant of disturbances. Walrus in the water are thought to be more tolerant to disturbance stimuli than those hauled out.

Quantitative research on the sensitivity of walrus to noise has been limited because no audiograms (a test to determine the range of frequencies and minimum hearing threshold) have been done on walrus. Hearing sensitivity is assumed to be within the 13 Hz and 1,200 Hz range of their own vocalizations. Walrus hunters and researchers have also noted that walrus tend to react to the presence of humans

and machines at greater distances from upwind approaches than from downwind approaches, suggesting that odor may also be a stimulus for a flight response. The visual acuity of walrus is thought to be less than for other species of pinnipeds.

Reactions to aircraft are thought to vary with aircraft type, range, and flight pattern, as well as walrus age, sex, and group size. Fixed-winged aircraft are less likely to elicit a response than helicopter overflights. Walrus are particularly sensitive to changes in engine noise and are more likely to stampede when planes turn or fly low overhead. Researchers conducting aerial surveys for walrus in sea ice habitats have observed little reaction to aircrafts above 1,000 ft (305 m).

The reaction of walrus to vessel traffic appears to be dependent upon vessel type, distance, speed, and previous exposure to disturbances. Underwater noise from vessel traffic in the Chukchi Sea may ''mask'' ordinary communication between individuals. Other factors, such as weather and length of time hauled out, may also contribute to the response. Ice management operations are expected to have the greatest potential for disturbances since these operations typically require the vessel to accelerate, reverse direction, and turn rapidly, activities that maximize propeller cavitation and resulting noise levels. However, researchers on board an icebreaker during ice management operations observed little to no reaction of hauled-out walrus groups beyond 0.5 mile (800 m). Furthermore, ship-board monitoring and mitigation measures for ice management, such as ''ice scouting,'' will indirectly limit encounters between vessels and walrus hauled out on ice floes.

Seismic operations are expected to create significantly more noise than general vessel and icebreaker traffic; however, there are no data available to evaluate the potential response of walrus to seismic operations. Studies in the Beaufort Sea based on visual monitoring from seismic vessels show that pinnipeds exhibit minimal avoidance of airguns, and slight changes in behavior. These studies show that pinnipeds frequently do not avoid the area within a few hundred meters of an operating airgun array. However, visual studies have their limitations and initial work suggests that avoidance and other behavioral reactions may be stronger than evident to date from visual studies.

For the purpose of this IHA, the Service will consider sound levels greater than 160 dB as the criterion for the onset of behavioral harassment, which is based on criteria developed for other pinniped species. Marine mammal monitoring programs are expected to provide further insight to the response of walrus to various seismic operations from which future mitigative conditions can be developed.

Polar Bear

Seismic exploration activities in the Chukchi Sea may affect polar bears in a number of ways. Seismic ships and icebreakers may be physical obstructions to polar bear movements, although these impacts are of short-term and localized effect. Noise, sights, and smells produced by exploration activities may repel or attract bears, either disrupting their natural behavior or endangering them by threatening the safety of seismic personnel.

Little research has been conducted on the effects of noise on polar bears. Polar bears are curious and tend to investigate novel sights, smells, and possibly noises. Noise produced by seismic activities could elicit several different responses in polar bears. Noise may act as a deterrent to bears entering the area of operation, or noise could potentially attract curious bears. Underwater noises produced by exploration are probably not a relevant form of disturbance because bears spend most of their time on the ice or at the surface of the water. Polar bears normally swim with their heads above the surface, where underwater noises are weak or undetectable. Polar bears are known to run from sources of noise and the sight of vessels or icebreakers and aircraft, especially helicopters. The effects of fleeing from aircraft may be minimal if the event is short and the animal is otherwise unstressed. On a warm spring or summer day, a short run may be enough to overheat a well-insulated polar bear. Likewise, fleeing from a working icebreaker may have minimal effects for a healthy animal on a cool day.

In the Chukchi Sea, during the open-water season, polar bears spend the majority of their time on pack-ice, which limits the chance of impacts from human and industry activities. Occasionally, polar bears can be found in open water, miles from the ice edge or ice floes.

Vessel traffic could result in short-term behavioral disturbance to polar bears. During the open-water season, most polar bears remain offshore in the pack-ice and are not typically present in the area of vessel traffic. If a ship is surrounded by ice, it is more likely that curious bears will approach. Any on-ice activities required by exploration activities create the opportunity for bear'human interactions. In relatively ice-free waters, polar bears are less likely to approach ships, although bears may be encountered on ice floes. For example, during the late 1980s, at the Belcher exploration drilling site in the Beaufort Sea, in a period of little ice, a large floe threatened the drill rig at the site. After the floe was moved by an icebreaker, workers noticed a female bear with a cub-of-the-year and a lone adult swimming nearby. It was assumed these bears had been disturbed from the ice floe.

Ships and icebreakers may act as physical obstructions in the spring during the start-up period for exploration if they transit through a restricted lead system, such as the Chukchi Polynya. Polynyas are important habitat for marine mammals, which makes them important hunting areas for polar bears. Ship traffic in these ice conditions may intercept or alter movements of bears. A similar situation could occur in the fall when the pack-ice begins to expand.

Routine aircraft traffic should have little to no effect on polar bears; however, extensive or repeated overflights of fixed-wing aircraft or helicopters could disturb polar bears. Behavioral reactions of polar bears should be limited to short-term changes in behavior that would have no long-term impact on individuals and no impacts on the polar bear population.

Potential Impacts on Subsistence Needs

Pacific Walrus

Pacific walrus are a valuable subsistence resource utilized by coastal Alaska Natives. For thousands of years, walrus hunting has been an important source of food and raw materials for equipment and handicrafts. Today, walrus hunting remains an important part of the culture and economy of many coastal villages in Alaska. The communities most likely to be impacted by the proposed activities are Point Hope, Point Lay, Wainwright, and Barrow.

Point Hope hunters typically begin their hunt in late May and June as walrus migrate north into the Lease Sale 193 Area. The sea ice is usually well off shore of Point Hope by July and does not bring animals back into the range of hunters until late August and September. Between 2000 and 2006, the average annual reported harvest at Point Hope was 11 animals per year (Table 3).

Walrus hunting in Point Lay occurs primarily in July. Point Lay hunters reported an average of 6.2 walrus per year between 2000 and 2004 (Table 3).

Wainwright residents hunt walrus from June through August as the ice retreats northward. Walrus are plentiful in the pack-ice near the village this time of year. Wainwright hunters have consistently harvested more walrus than any other subsistence community on the North Slope. The village averaged 62.2 animals per year for 2000–2004 (Table 3).

Barrow is the northernmost community near the project area. Most walrus hunting occurs from June through September, peaking in August, when the land-fast ice breaks up and hunters can access the walrus by boat as they migrate north on the retreating pack-ice. The average annual walrus harvest for Barrow from 2000 to 2004 was 31.8 animals (Table 3).

TABLE 3.—NATIVE SUBSISTENCE WALRUS HARVEST ESTIMATES BY YEAR AND VILLAGE

Village	1988–1999	2000	2001	2002	2003	2004
Barrow	228	19	36	39	51	14
Wainwright	508	36	93	118	29	35
Point Lay	31	6	3	10	10	2
Point Hope	36	6	2	15	12	20

Based upon walrus reported through the USFWS Marking, Tagging, and Reporting Program. Walrus harvest data for 2005 is not presently available. Harvest totals are not corrected for struck and lost animals.

Any activity that displaces walrus beyond the range of coastal hunters has the potential to adversely impact subsistence harvests in these communities. Walrus hunting may occur anywhere along the Chukchi Sea coastline from Cape Lisburne to Point Barrow. Walrus hunting from these communities is generally limited to conditions when sea ice occurs within the range of small hunting boats, typically less than 30 miles from shore.

Little information is available to predict the effects of offshore activities on subsistence walrus hunting; however, walrus hunting occurs primarily in pack-ice and it is unlikely that open-water seismic activities would have a significant impact on subsistence harvest opportunities. As described in the section on standard operational conditions, the Service will require Shell, CPAI, and GXT to consult with affected communities and the EWC, as appropriate, to identify measures to minimize any potential impact to subsistence hunters in the affected communities.

Polar Bear

Depending upon ice conditions, the subsistence harvest of polar bears can occur year-round in the northern Chukchi Sea villages, with peaks in the spring and winter. The period with the lowest harvest of bears occurs in June and July. Hunting success varies considerably from year to year because of variable ice and weather conditions.

Little information is available for predicting the effects of offshore activities on subsistence polar bear hunting in the Chukchi Sea; however, direct conflicts are unlikely to occur between polar bear hunters and seismic activities because the timing of polar bear hunting occurs primarily during the winter and spring when pack-ice is present nearshore and the seismic activities will occur in the summer and fall open-water seasons. As described in the section on standard operational conditions, the Service will require Shell, CPAI, and GXT to consult with affected communities, as appropriate, to identify measures to be taken to minimize any potential impact to subsistence hunters in the affected communities.

Basis for Findings

Negligible Impact on Species

Our findings of negligible impact were based on the total level of activity described by each applicant and the Service's analysis of the effects of all activities. In making this finding, we considered the following: (1) The distribution of the species; (2) the biological characteristics of the species; (3) the nature of seismic programs; (4) the potential effects of seismic programs on the species; and (5) the documented impacts of seismic activities on the species.

Vessels associated with seismic activities plan to travel in open water to avoid ice floes, which is where walrus are likely to be found. Furthermore, walrus are not uniformly distributed across the proposed study area. The proposed seismic operations would not be concentrated in any location for extended periods. Therefore, most of the proposed activities would occur in areas of open water where walrus densities are expected to be relatively low. Based on the proposed activities and the distribution of walrus, we find that takes are likely to be limited to harassment of a relatively small number of animals and of relatively short-term in duration. Therefore, the proposed activities are not reasonably likely to adversely affect the Pacific walrus or the Pacific walrus stock through effects on annual rates of recruitment or survival.

The number of polar bears present in the open water of the Chukchi Sea during the time of seismic activity will also be minimal. Individual polar bears may be observed in the open water during seismic activities, but the majority of the population will be found on the pack-ice during this time of year and, again, seismic activities avoid ice floes and the pack-ice edge. The Service anticipates that potential impacts of seismic activities on polar bears would be limited to short-term changes in behavior and would have no long-term impact on individuals or impacts to the polar bear population. Therefore, we find that the proposed seismic activities are not reasonably likely to adversely affect polar bears or the Chukchi polar bear stock through effects on annual rates of recruitment or survival.

Based on our review of these factors, we conclude that, while incidental harassment of polar bears and walrus is reasonably likely to or reasonably expected to occur as a result of proposed activities, the overall impact would be negligible on polar bear and Pacific walrus populations. In addition, we find that any takes are likely to be limited to Level B harassment of a relatively small number of animals and of relatively short-term in duration. Furthermore, we do not expect the anticipated level of harassment from these proposed activities to affect the rates of recruitment or survival of Pacific walrus and polar bear populations.

We also considered the specific Congressional direction in balancing the potential for a significant impact with the likelihood of that event occurring. The specific Congressional direction that describes evaluating the probability of occurrence with the level of impact follows:

If potential effects of a specified activity are conjectural or speculative, a finding of

negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the Service will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determination will be made based on the best available scientific information [53 FR 8474; accord, 132 Cong. Rec. S 16305 (Oct. 15, 1986)].

Our finding applies to the proposed seismic programs by Shell, CPAI, and GXT that would occur in the Chukchi Sea region during the 2006 open-water season. If the proposed activities are authorized, standard operational conditions would be attached to each authorization. These conditions minimize interference with normal breeding, feeding, and migration patterns.

Impact on Subsistence

Based on the results of harvest data, including affected villages, the number of animals harvested, the season of the harvests, and the location of hunting areas, we find that the effects of the proposed seismic activities in the Chukchi Sea region would not have an unmitigable adverse impact on the availability of polar bears and Pacific walrus for taking for subsistence uses during the period of the activities. In making this finding, we considered the following: (1) Records on subsistence harvest from the Service's Marking, Tagging, and Reporting Program (historical data regarding the timing and location of harvests) and (2) anticipated effects of the applicants' proposed activities on subsistence hunting.

Most subsistence walrus hunting occurs in pack-ice areas, which are areas typically avoided by seismic operations. Although walrus hunters may encounter support vessels and aircraft in open-water areas, these interactions are expected to be limited in area and duration and are not expected to affect overall hunting success. Therefore, we find that the proposed seismic activities will not have an unmitigable adverse impact on the availability of walrus for subsistence uses.

Only a small fraction of the polar bear harvest occurs during the open-water season. In addition, most polar bears are harvested outside of the area that would be covered by this authorization. Because the polar bear is hunted almost entirely during the ice-covered season, it is unlikely that open-water seismic activities would have any effect on the harvest of that species. The Service anticipates that the effect of these seismic activities on the availability of polar bears to subsistence hunters would be very low if it were to occur at all. Therefore, we find that the proposed seismic activities would not have an unmitigable adverse impact on the availability of polar bears for subsistence uses.

Standard Operational Conditions

The following measures will ensure that the least practicable impact on Pacific walrus and polar bear and on the availability of these species or stocks for taking for subsistence uses. These measures are not necessary to arrive at our conclusion that these activities will have a negligible impact on these species or stocks or our conclusion that the activities will not have unmitigable adverse impact on the availability of the species for subsistence purposes.

Conditions that will be required to minimize the potential for harassment include the following:

(1) Seismic and support vessels must observe a 0.5-mile (800-m) exclusion zone around walrus and polar bears observed on land or ice.

(2) Aircraft will be required to maintain a 1,000-ft (300-m) minimum altitude within 0.5 mile (800-m) of hauled out walrus and polar bears.

(3) Seismic operations will cease if walrus are sighted within a 190 dB acoustical safety radius.

(4) No seismic activities will take place in the Chukchi Sea before June 1, 2006. This prohibition would limit interference from seismic activities when marine mammals are concentrated in association with the spring lead system. This condition considers transit to and from activity sites as part of seismic activity, especially when support vessels mobilize into the Chukchi Sea for the purpose of seismic exploration.

(5) Each activity would require a final walrus/polar bear monitoring plan that is approved by the Service. The purpose of the plan would be to monitor the effects of the activity on polar bears and walrus in the areas of seismic exploration. The monitoring plan would be approved by the Service prior to issuance of the incidental harassment authorization and will be incorporated as a condition of the IHA. These plans would require ship-board trained marine mammal observers. During seismic operations, on-board marine mammal observers will monitor the zone of ensonification (i.e., the area around the seismic vessel exposed to certain sound propagation levels from the source arrays) for polar bears and walrus. If a polar bear or walrus is sighted in the ensonification zone, operations will cease until animals move out of the zone.

(6) Each applicant will be required to develop a Service-approved site-specific polar bear and walrus interaction plan prior to initiation of activities. These plans outline the contingency steps that the applicant will take, such as the chain of command for reporting and responding to polar bear or walrus sightings.

(7) Ice management mitigation measures, i.e., ''ice scouting,'' such as radar, satellite imagery, and reconnaissance flights using scheduled aircraft to monitor ice movement in the projected survey areas 24 to 48 hours prior to seismic activity, may be required to be instituted during activities in response to ice movement. These measures have a dual purpose since they are important for the proper acquisition of seismic data, as well as delineating the presence and abundance of polar bears and walrus in the area. They will also serve to limit the distance to ice due to seismic program protocols and thus limit the potential for walrus and polar bear encounters.

Conditions that will be required to minimize potential impacts on subsistence walrus and polar bear hunting include the following:

(1) Seismic activity will be deferred during the spring migration through opening leads. This will ensure that the leads have deteriorated and that there is ample open water to allow walrus free movement to avoid support traffic and transit time of seismic vessels. Seismic activities would be confined to the open-water season, which will not exceed the period of July 1 to November 30. This should allow the villages to participate in subsistence hunts for polar bears without interference and to minimize impacts to walrus during migration.

(2) No seismic activities will occur within a 40-mile radius of affected communities. This condition will limit potential interactions with walrus hunters in near-shore environments.

(3) Applicants will be required to contact and consult with the communities of Point Hope, Point Lay, Wainwright, and Barrow to identify any additional measures to be taken to minimize adverse impacts to subsistence hunters in these communities. Prior to receipt of an IHA, applicants must provide evidence to the Service that, if warranted, a Plan of Cooperation (POC) has been presented to the subsistence communities. A POC will be developed if there is concern from the community that the activities will impact subsistence uses of Pacific

walrus and polar bears. The POC must address how applicants will work with the affected Native communities and what actions will be taken to avoid interference with subsistence hunting of walrus and polar bear. The Service will review the POC to ensure any potential adverse effects on the availability of the animals are minimized.

Monitoring

A plan for monitoring the effects of seismic exploration on polar bears and walrus that has been reviewed and approved by the Service is required of all applicants receiving an IHA. In addition, the Service recognizes that other opportunities for the Service, and possibly the applicant, to cooperatively conduct research that may resolve other deficiencies in knowledge of walrus and polar bear populations and habitat requirements may occur outside of the IHA process. Such research would be related to acquiring data necessary to understand the effects of exploratory activities for oil and gas, including their effects on walrus and polar bear.

The purpose of monitoring programs is to determine short-term and long-term direct, indirect, and cumulative effects of authorized activities on polar bears and walrus in the Chukchi Sea. Plans must identify the methods that will be used to determine and assess the effect on the movements, behavior, and habitat use of polar bears and walrus in response to seismic activity.

Monitoring programs may be required to answer some basic biological questions as a necessary step toward understanding the relationships between the proposed activity and the species' survival, productivity, and habitat requirements. The basic elements of the monitoring programs are to determine and report when, where, how and how many marine mammals, by species, age/size, and sex, are taken in the course of authorized exploration activities and to verify the nature and level of take. Methods and techniques to detect possible longer-term changes and trends in abundance, distribution, and productivity of populations of affected species should be developed. However, the responsibility for developing these methods is not necessarily that of the applicant.

The applicant has a responsibility for conducting monitoring necessary to verify the level of take. The Service is responsible, under the MMPA, for assessing the level of incidental taking and determining if the taking exceeds the anticipated level and has greater than a negligible impact on walrus and polar bear populations. The Service is also responsible for determining if the taking exceeds the anticipated level and has an unmitigable adverse impact on the availability of these species for subsistence uses.

Monitoring methods that might be used include, but are not limited to, aerial surveys, shipboard observations, acoustic studies, and monitoring radio-tagged walrus and polar bears in the vicinity of the activity.

At its discretion, the Service may place an observer on board seismic ships, icebreakers, support ships, and aircraft to monitor the impact of seismic exploration activities on walrus and polar bears and to observe other activities authorized by a scientific research permit or IHA.

The Service will coordinate monitoring plans for walrus and polar bears developed by applicants so that information is gathered in a consistent manner. The Service also will coordinate with other agencies that require monitoring programs (NMFS, MMS, and the State of Alaska) to avoid duplication of effort and data collection for the same exploration activity and applicant.

Development and participation in a cooperative research program is not a requirement for obtaining an IHA. However, the Service encourages research of polar bears and walrus, such as projects funded and supported by the National Fish and Wildlife Foundation. Holders of IHAs and the Service will meet annually to discuss monitoring goals and results. This type of program could create opportunities to collect valuable information that would provide additional insight into the relationship between seismic activities in support of the oil and gas industry and the basic biological requirements of the two species of concern.

Reporting

Polar bear and walrus observation forms will be provided by the Service to the applicants. Any polar bear or walrus sighting that occurs during the individual seismic programs must be submitted to the Service within 24 hours of the animal sighting. An annual report must be submitted to the Service within 90 days of completing the year's activities. This report will provide dates and locations of survey movements and other operational activities, weather conditions, dates and locations of any activities related to monitoring the effects on marine mammals, and the methods, results, and interpretation of all monitoring activities, including estimates of the level and type of take, numbers of each species observed, direction of movement of observed individuals, and any observed changes or modifications in behavior or travel direction.

Endangered Species Act

The Service has determined that no species listed as threatened or endangered under the Endangered Species Act of 1973, as amended, would be affected by issuing an IHA under section 101(a)(5)(D) of the MMPA to the applicants for the proposed open-water seismic surveys.

National Environmental Policy Act

The information provided in an Environmental Assessment (EA) prepared by the Service for 2006 open-water Chukchi Sea seismic activities has led the Service to conclude that implementation of either the preferred alternative or other alternatives identified in the EA would not have a significant impact on the human environment. Therefore, an Environmental Impact Statement was not prepared. For a copy of the EA, contact the individual identified in the section **FOR FURTHER INFORMATION CONTACT**.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Secretarial Order 3225, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a Government-to-Government basis. We have evaluated possible effects on federally recognized Alaska Native tribes. Through the POC identified above, applicants will work with the Native Communities most likely to be affected and take actions to avoid interference with subsistence hunting.

Proposed Authorizations

The Service proposes to issue separate IHAs for small numbers of Pacific walrus and polar bears harassed incidentally by Shell, CPAI, and GXT seismic survey programs within the Chukchi Sea. These seismic programs are separate activities and independent of one another. Each applicant would be responsible for their own actions, operational conditions, and requirements for monitoring and reporting, as described above, under separate IHAs. The purpose of the seismic programs of Shell, CPAI, and GXT is oil and gas exploration. These

seismic programs would be conducted in and around the 2007 MMS Chukchi Sea Lease Sale 193. All activities would be conducted during the 2006 open-water season. Authorizations for the oil and gas seismic operations would be for approximately 6 months. These authorizations do not allow the intentional taking of polar bear or Pacific walrus.

If the level of activity, including the number of miles for seismic surveys and the number of support vessels and aircraft flights associated with seismic exploration, exceeds that described by the applicants, or the level or nature of take exceeds those projected here, the Service would reevaluate its findings. The Secretary may modify, suspend, or revoke an authorization if the findings are not accurate or the conditions described herein are not being met.

Public Comments Solicited

The Service requests interested persons to submit comments and information concerning this proposed IHA. Consistent with section 101(a)(5)(D)(iii) of the MMPA, we are opening the comment period on this proposed authorization for 30 days (see **ADDRESSES**).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state that prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: May 2, 2006.

Karen Sullivan,

Acting Regional Director.

[FR Doc. 06–4284 Filed 5–3–06; 2:09 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–1410–HY–P; F–14882–B]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Gana-A'Yoo, Limited, successor in interest to Mineelghaadza, Limited, for lands in the vicinity of Koyukuk, Alaska, and located in:

Kateel River Meridian

T. 7 S., R. 4 E.,
Sec. 36.
Containing 640 acres.

T. 6 S., R. 6 E.,
Secs. 29 and 32.
Containing 1,280 acres.

T. 5 S., R. 8 E.,
Sec. 7.
Containing 87.01 acres.
Aggregating 2007.01 acres.

Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until 30 days after publication in the **Federal Register** to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Jenny M. Anderson,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–6930 Filed 5–5–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–XP–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council meeting notice.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council (RAC).

The business meeting will be held on June 8, 2006, in Elgin, Arizona, at the National Audubon Society Appleton-Whittell Research Ranch located at 366 Research Ranch Road (approximately 55 miles from Tucson east on I–10 and south on State Route 83S past Sonoita, AZ). It will begin at 9:30 a.m. and conclude at 4:30 p.m. The agenda items to be covered include: Review of the March 2, 2006 Meeting Minutes; BLM State Director's Update on Statewide Issues; Presentations on BLM's Invasive Weeds Program and the San Juan Bautista De Anza Trail—Arizona segment, Updates on the Recreation Resource Advisory Committee and Arizona Land Use Planning; RAC Questions on Written Reports from BLM Field Managers; Field Office Rangeland Resource Team Proposals; Reports by the Standards and Guidelines, Recreation, Off-Highway Vehicle Use, Public Relations, Land Use Planning and Tenure, and Wild Horse and Burro Working Groups; Reports from RAC members; and Discussion of future meetings. A public comment period will be provided at 11:30 a.m. on June 8, 2006, for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, (602) 417–9215.

Bonnie Hogan,

Acting Arizona State Director.

[FR Doc. E6–6903 Filed 5–5–06; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–5853–ES; N–80066]

Recreation and Public Purposes (R&PP) Act Classification; Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for lease or conveyance under the provisions of the Recreation and Public Purposes Act (R&PP), as amended (43 U.S.C. 869 *et seq.*), approximately 5 acres of public land in Clark County, Nevada. Clark County proposes to use the land for a Clark County Metropolitan Police Department Area Substation and related facilities.

DATES: Interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands until June 22, 2006.

ADDRESSES: Send written comments to the Bureau of Land Management (BLM) Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada, 89130–2301. Detailed information concerning this action is available for review at the BLM office listed above.

FOR FURTHER INFORMATION CONTACT: Marilyn Sowa, Realty Specialist, BLM, Las Vegas Field Office, at (702) 515–5122.

SUPPLEMENTARY INFORMATION: The following described public land has been examined and found suitable for classification for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*) and is hereby classified accordingly:

Mount Diablo Meridian, Nevada

T. 22 S., R. 60 E.,
sec. 15, W½NE¼NE¼NE¼.

The area described contains 5 acres, more or less, in Clark County.

In accordance with the R&PP Act, Clark County has filed an R&PP application to develop the above described land as a Clark County Metropolitan Police Department Area Substation and related facilities. These related facilities include a Substation building facility (offices, kitchen, restrooms, utility/storage rooms, generator pad, and mechanical yard), ancillary equipment, separate paved parking areas for police and citizens, landscaped areas, lighting and utilities, and off-site improvements (boundary streets, utilities, street lighting, and sidewalks). Additional detailed information pertaining to this application, Plan of Development, and site plans is in case-file N–80066, which is located in the BLM Las Vegas Field Office.

Counties are a common applicant under the ''public purposes'' provision of the R&PP Act. Clark County is a political subdivision of the State of Nevada and is therefore, a qualified applicant under the R&PP Act. The land is not required for any Federal purpose. The lease/conveyance is consistent with the BLM Las Vegas Resource Management Plan, dated October 5, 1998, and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following terms, conditions, and reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act, of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe. The patent will be subject to:

1. All valid existing rights, and

2. A Right-of-Way N–63015 in favor of Clark County for roads, public utilities, and flood control purposes.

On May 8, 2006, the land described above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the R&PP Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. Interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands until June 22, 2006.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a police substation. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for R&PP use. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this notice will become effective on July 7, 2006. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Comments, including names and street addresses of respondents will be available for public review at the BLM Las Vegas Field Office during regular business hours Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of organizations or businesses, will be made available for public inspection in their entirety.

(Authority: 43 CFR part 2741)

Sharon DiPinto,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. E6–6885 Filed 5–5–06; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–471 and 472 (Second Review)]

Silicon Metal From Brazil and China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on silicon metal from Brazil and China.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on silicon metal from Brazil and China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 2, 2006.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On April 10, 2006, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (71 FR 23947, April 25, 2006). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the reviews will be placed in the nonpublic record on August 22, 2006, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on September 7, 2006, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 30, 2006. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 5, 2006, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is August 30, 2006. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is September 15, 2006; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before September 15, 2006. On October 11, 2006, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 13, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: May 2, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–6884 Filed 5–5–06; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), as amended, notice is hereby given that seven meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate):

Partnership/National Services (application review): May 24, 2006 from Room 710. This meeting, which will be by teleconference from 3 p.m. to 4 p.m. Eastern Time, will be closed.

Media Arts, Panel A (application review): May 31–June 2, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on May 31st, from 9 a.m. to 6 p.m. on June 1st, and from 9 a.m. to 1 p.m. on June 2nd, will be closed.

Media Arts, Panel B (application review): June 2, 2006 in Room 716. This meeting, from 1 p.m. to 4 p.m., will be closed.

AccessAbility (application review): June 7, 2006 from Room 710. This meeting, which will be by teleconference from 2 p.m. to 3:30 p.m., will be closed.

Folk and Traditional Arts (application review): June 8–9, 2006 in Room 716. This meeting, from 9 a.m. to 6:30 p.m. on June 8th and from 9 a.m. to 6 p.m. on June 9th, will be closed.

Local Arts Agencies (application review): June 14, 2006 in Room 730. This meeting, from 9 a.m. to 5:45 p.m., will be closed.

Visual Arts (application review): June 27–30, 2006 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on June 27th, 28th, and 29th, and from 9 a.m. to 3 p.m. on June 30th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: May 1, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–6928 Filed 5–5–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; President's Committee on the Arts and the Humanities: Meeting #59

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities (PCAH) will be held on Wednesday, May 24, 2006, from 9:00 a.m. to 11 a.m. (ending time is tentative). The meeting will be held at the Carson Sound Stage, University of Southern California, School of Cinema-Television, 850 West 34th Street, Los Angeles, CA 90089–2211.

The Committee meeting will begin with a welcome, introductions, and announcements. Updates on Committee programs and activities will follow, including a report on youth arts and humanities projects and a presentation by Dr. Anne Imelda-Radice, the newly confirmed Director of the Institute of Museum and Library Services. In addition, reports are anticipated by Committee Chairman Adair Margo and Dr. Bruce Cole, Chairman of the National Endowment for the Humanities, on their recent visit to four past Coming Up Taller awardees in the Gulf Region, who were recently awarded Chairman's emergency grants to carry on their work. In addition, the President's Committee will continue discussion of its actions and initiatives in international cultural relations. The meeting will adjourn after discussion of other business, as necessary, and closing remarks.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982, which currently states that the ''Committee shall advise, provide recommendations to, and assist the President, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services on matters relating to the arts and the humanities.''

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend are advised to contact Jenny Schmidt of the President's Committee seven (7) days in advance of the meeting at (202) 682–5560 or write to the Committee at 1100 Pennsylvania Avenue, NW., Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Schmidt.

If you need special accommodations due to a disability, please contact Ms. Schmidt through the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Suite 724, Washington, DC 20506, (202) 682–5532, TDY–TDD (202) 682–5560, at least seven (7) days prior to the meeting.

Dated: May 1, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–6927 Filed 5–5–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (1173).

Dates/Time: May 31, 2006, 2:30 p.m.–5:30 p.m. June 1, 2006, 8:30 a.m.–5:30 p.m. and June 2, 2006, 8:30 a.m.–2 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1235 S, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Margaret E.M. Tolbert, Senior Advisor and Executive Liaison, CEOSE, Office of Integrative Activities, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8040 *mtolbert@nsf.gov*.

Minutes: May be obtained from the Executive Liaison at the above address.

Purpose of Meeting: To provide advice and recommendations concerning broadening participation in science and engineering.

Agenda:

Wednesday, May 31, 2006

Orientation meeting for New Members of

CEOSE

Thursday, June 1, 2006

Welcome and Opening Statement by the CEOSE Chair
Introductions
Mini Symposium on Community Colleges
Topics To Be Presented and Discussed:
- The Philosophy and History of Community Colleges
- Challenges and Opportunities in Managing a Large Urban and Suburban Community College System
- Current State of Affairs at the Nation's Community Colleges
- The Role of Community Colleges in the Education of Recent Science and Engineering Graduates

Presentations and Discussions
- The Intersection of Race, Gender and Disability in NSF's Employment Data
- Asian Americans and Pacific Islanders' Issues: The Challenges of Success (*http://www.nsf.gov/pubs/2005/nsf0551/*)
- The Louis Stokes Alliances for Minority Participation Program

Friday, June 2, 2006

Opening Statement by the CEOSE Chair
Statement from CEOSE Member Whose Term is Ending
Presentations/Discussions:
- Broadening Participation Evaluation and Assessment within NSF
- Subcommittee Reports and Deliberations
- Report of CEOSE Liaisons to National Science Foundation Advisory Committees
- Response to the NSF Strategic Plan

Completion of Unfinished Business

Dated: May 3, 2006.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 06–4288 Filed 5–5–06; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 55, ''Operators' Licenses.''

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* As necessary for NRC to meet its responsibilities to determine the eligibility of applicants for operators' licenses, prepare or review initial operator licensing and requalification examinations, and review applications for and performance of simulation facilities.

5. *Who will be required or asked to report:* Holders of and applicants for facility (*i.e.*, nuclear power, research, and test reactors) operating licenses and individual operators' licenses.

6. *An estimate of the number of annual responses:* 343 (240 responses + 103 recordkeepers).

7. *The estimated number of annual respondents:* 103 (70 power reactor licensees + 33 non-power reactor licensees).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 67,060 (45,464 hrs. reporting + 21,596 hrs. recordkeeping).

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* N/A.

10. *Abstract:* 10 CFR part 55, ''Operators' Licenses,'' of the NRC's regulations, specifies information and data to be provided by applicants and facility licenses so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and recordkeeping requirements contained in 10 CFR part 55 are mandatory for the licensees and applicants affected.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by June 7, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John A. Asalone, Office of Information and Regulatory Affairs (3150–0018), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 2nd day of May, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–6915 Filed 5–5–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern Nuclear Operating Company, Inc. (the licensee) to withdraw its March 8, 2005 application for proposed amendment to Facility Operating License Nos. NPF–2 and NPF–8 for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, located in Houston County, Alabama. The proposed amendment would have revised the Technical Specifications to delete Function 11, Reactor Coolant Pump (RCP) Breaker Position, in TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation.''

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 5, 2005 (70 FR 38722). However, by letter dated March 17, 2006, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 8, 2005, and the licensee's letter dated March 17, 2006, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and

Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 5th day of April 2006.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing , Office of Nuclear Reactor Regulation.

[FR Doc. E6–6914 Filed 5–5–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries That Deny Adequate Protection, or Market Access, for Intellectual Property Rights Under Section 182 of the Trade Act of 1974

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Trade Representative (USTR) has submitted its annual report on the identification of those foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to United States persons that rely upon intellectual property protection, and those foreign countries determined to be priority foreign countries, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the United States House of Representatives, pursuant to section 182 of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2242).

DATES: This report was submitted on April 28, 2006 and is available on USTR's Web site at *http://www.ustr.gov.*

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Jennifer Choe Groves, Director for Intellectual Property and Chair of the Special 301 Committee at (202) 395–4510.

SUPPLEMENTARY INFORMATION: Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), under Special 301 provisions, USTR must identify those countries that deny adequate and effective protection for IPR or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products must be designated as ''Priority Foreign Countries.''

Priority Foreign Countries are potentially subject to an investigation under the section 301 provisions of the Trade Act of 1974. USTR may not designate a country as a Priority Foreign Country if it is entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR.

USTR must decide whether to identify countries within 30 days after issuance of the annual National Trade Estimate Report. In addition, USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted.

USTR has created a ''Priority Watch List'' and ''Watch List'' under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

Additionally, under section 306, USTR monitors a country's compliance with bilateral intellectual property agreements that are the basis for resolving an investigation under Section 301. USTR may apply sanctions if a country fails to satisfactorily implement an agreement.

The interagency Trade Policy Staff Committee that advises USTR on the implementation of Special 301 obtains information from and holds consultations with the private sector, U.S. embassies, the United States' trading partners, the U.S. Congress, and the National Trade Estimate Report, among other sources.

The Special 301 Report is available on USTR's Web site at *http://www.ustr.gov.*

On April 28, 2006, USTR identified 48 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States persons that rely upon intellectual property protection.

USTR announced that China and Russia remain significant concerns. China is a top IPR enforcement priority; USTR will maintain heightened scrutiny of China, will step up consideration of its WTO dispute settlement options, and will scrutinize IPR protection and enforcement at China's provincial level by conducting a special provincial review in the coming year. The China section of the report recognizes China's efforts to address IPR problems but concludes that IPR infringements throughout China remain at unacceptable levels.

The Russia section of the report notes that although Russia has taken some steps to curb pirate production of optical discs in factories, particularly those located on government-owned property, high levels of IPR infringement remain, particularly infringements connected with Russia-based optical disc plants and Web sites.

USTR again designated Paraguay for section 306 monitoring to ensure its compliance with the commitments made to the United States under bilateral intellectual property agreements.

USTR also announced the placement of 13 trading partners on the Priority Watch List: China, Russia, Argentina, Belize, Brazil, Egypt, India, Indonesia, Israel, Lebanon, Turkey, Ukraine, and Venezuela. In addition, USTR placed 34 trading partners on the Watch List: Bahamas, Belarus, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Dominican Republic, Ecuador, European Union, Guatemala, Hungary, Italy, Jamaica, Kuwait, Latvia, Lithuania, Malaysia, Mexico, Pakistan, Peru, Philippines, Poland, Republic of Korea, Romania, Saudi Arabia, Taiwan, Tajikistan, Thailand, Turkmenistan, Uzbekistan, and Vietnam.

USTR will conduct out-of-cycle reviews of Canada, Chile, Indonesia, Latvia, and Saudi Arabia.

Victoria Espinel,

Assistant U.S. Trade Representative for Intellectual Property.

[FR Doc. E6–6926 Filed 5–5–06; 8:45 am]

BILLING CODE 3190–W6–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Customer Satisfaction Surveys and Focus Groups

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend its approval of a collection of information under the Paperwork Reduction Act. The purpose of the information collection, which will be conducted through focus groups and surveys over a three-year period, is to help the PBGC assess the efficiency and effectiveness with which it serves its customers and to design actions to address identified problems. This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by July 7, 2006.

ADDRESSES: Comments may be mailed to the Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026. Comments also may be submitted by e-mail to *paperwork.comments@pbgc.gov,* or by fax to 202–326–4224. PBGC will make all comments available on its Web site, *http://www.pbgc.gov.* Copies of comments may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC at the above address or by visiting the Disclosure Division or calling 202–326–4040 during normal business hours. TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.

FOR FURTHER INFORMATION CONTACT: Thomas H. Gabriel, Attorney, Legislative & Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024.

SUPPLEMENTARY INFORMATION: The PBGC intends to request that OMB extend its approval, for a three-year period, of a generic collection of information consisting of customer satisfaction focus groups and surveys (OMB control number 1212–0053; expires October 31, 2006). The information collection will further the goals of Executive Order 12862, Setting Customer Service Standards, which states the Federal Government must seek to provide ''the highest quality of service delivered to customers by private organizations providing a comparable or analogous service.''

The PBGC uses customer satisfaction focus groups and surveys to find out about the needs and expectations of its customers and assess how well it is meeting those needs and expectations. By keeping these avenues of communication open, the PBGC can continually improve service to its customers, including plan participants and beneficiaries, plan sponsors and their affiliates, plan administrators, pension practitioners, and others involved in the establishment, operation and termination of plans covered by the PBGC's insurance program. Because the areas of concern to the PBGC and its customers vary and may quickly change, it is important that the PBGC have the ability to evaluate customer concerns quickly by developing new vehicles for gathering information under this generic approval.

Participation in the focus groups and surveys will be voluntary. The PBGC will consult with the Office of Management and Budget regarding each specific information collection during the approval period. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that the annual burden for this collection of information will total 1,400 hours for 4,200 respondents. The PBGC further estimates that the cost to respondents per burden hour will average $65, resulting in a total cost of $91,000 ($65 × 1,400).

The PBGC is specifically seeking public comments to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the PBGC's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g., permitting electronic submission of responses.

Issued at Washington, DC, this 2nd day of May 2006.

Rick Hartt,

Chief Technology Officer, Pension Benefit Guaranty Corporation.

[FR Doc. E6–6883 Filed 5–5–06; 8:45 am]

BILLING CODE 7709–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27308]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

April 28, 2006.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of April, 2006. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 23, 2006, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

J.P. Morgan Funds [File No. 811–7340]; J.P. Morgan Institutional Funds [File No. 811–7342]; J.P. Morgan Mutual Fund Select Trust [File No. 811–7841]; J.P. Morgan Mutual Fund Select Group [File No. 811–7843]; Growth & Income Portfolio [File No. 811–8084]; J.P. Morgan Mutual Fund Trust [File No. 811–8358]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On February 18, 2005, each applicant transferred its assets to JP Morgan Trust I, based on net

asset value. Expenses of $850,000, $810,000, $850,000, $850,000, $850,000 and $2,550,000, respectively, incurred in connection with the reorganizations were paid by J.P. Morgan Investment Management Inc., applicants' investment adviser, or its affiliates.

Filing Date: The applications were filed on April 3, 2006.

Applicants' Address: 522 Fifth Ave., New York, NY 10036.

21st Century Trust [File No. 811–6451]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On February 28, 2005, applicant made a final liquidating distribution to its shareholders, based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on March 28, 2006.

Applicant's Address: c/o Van Kampen Funds Inc., Administrator, Unit Investment Trust Division, 1221 Avenue of the Americas, New York, NY 10020.

GAM Avalon Galahad, LLC [File No. 811–10247]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On February 17, 2006, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $8,002 incurred in connection with the liquidation were paid by GAM USA Inc., applicant's investment adviser. Applicant has retained $116,916 in cash reserves to cover outstanding accrued expenses.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 115 East 57th St., New York, NY 10022.

AHA Investment Funds, Inc. [File No. 811–5534]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 30, 2005, applicant transferred its assets to CNI Charter Funds, based on net asset value. Expenses of $355,606 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on March 17, 2006.

Applicant's Address: 190 South La Salle St., Suite 2800, Chicago, IL 60603.

Central Equity Trust [File No. 811–5965]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On December 1, 2003, applicant made a final liquidating distribution to its shareholders, based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on March 28, 2006.

Applicant's Address: c/o Van Kampen Funds Inc., Administrator, Unit Investment Trust Division, 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Advantage Municipal Income Trust [File No. 811–6736]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On January 27, 2006, applicant transferred its assets to Van Kampen Municipal Opportunity Trust, based on net asset value. The preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-one basis. Expenses of $444,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Value Municipal Income Trust [File No. 811–7400]; Van Kampen Municipal Opportunity Trust II [File No. 811–7676]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On January 27, 2006, each applicant transferred its assets to Van Kampen Advantage Municipal Income Trust II, based on net asset value. Each applicant's preferred shares were converted into preferred shares of the acquiring fund on a one-for-one basis. Total expenses of $502,000 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on March 20, 2006.

Applicants' Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen High Income Trust [File No. 811–5707]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On July 29, 2005, applicant transferred its assets to Van Kampen High Income Trust II, based on net asset value. Applicant's preferred shares had a liquidation preference of $100,000 per share and the preferred shares of the acquiring fund have a liquidation preference of $25,000, so the preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-four basis. Expenses of $381,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Pennsylvania Quality Municipal Trust [File No. 811–6370]; Van Kampen Trust for Investment Grade Pennsylvania Municipals [File No. 811–6539]; Van Kampen Advantage Pennsylvania Municipal Income Trust [File No. 811–6732]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 2, 2005, each applicant transferred its assets to Van Kampen Pennsylvania Value Municipal Income Trust, based on net asset value. Each applicant's preferred shares were converted into preferred shares of the acquiring fund on a one-for-one basis. Total expenses of $587,000 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on March 20, 2006.

Applicants' Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Investment Grade Municipal Trust [File No. 811–5786]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On August 26, 2005, applicant transferred its assets to Van Kampen Municipal Trust, based on net asset value. Applicant's preferred shares had a liquidation preference of $100,000 per share and the preferred shares of the acquiring fund have a liquidation preference of $25,000 per share, so the preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-four basis. Expenses of $248,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Ohio Value Municipal Income Trust [File No. 811–6738]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 7,

2005, applicant transferred its assets to Van Kampen Ohio Quality Municipal Trust, based on net asset value. The preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-one basis. Expenses of $256,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Strategic Sector Municipal Trust [File No. 811–7356]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 7, 2005, applicant transferred its assets to Van Kampen Select Sector Municipal Trust, based on net asset value. The preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-one basis. Expenses of $290,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Municipal Income Trust [File No. 811–5230]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 7, 2005, applicant transferred its assets to Van Kampen Trust for Investment Grade Municipals, based on net asset value. Applicant's preferred shares had a liquidation preference of $500,000 per share and the preferred shares of the acquiring fund have a litigation preference of $25,000 per share, so the preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-twenty basis. Expenses of $491,000 incurred in connection with the reorganization were paid by applicant, the acquiring fund and Van Kampen Asset Management, applicant's investment adviser.

Filing Date: The application was filed on March 20, 2006.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen Florida Quality Municipal Trust [File No. 811–6369]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 28, 2005, applicant transferred its assets to Van Kampen Trust for Investment Grade Florida Municipals, based on net asset value. The preferred shares of applicant were converted into preferred shares of the acquiring fund on a one-for-one basis. Expenses of $291,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

Filing Date: The application was filed on March 20, 2005.

Applicant's Address: 1221 Avenue of the Americas, New York, NY 10020.

Van Kampen New York Quality Municipal Trust [File No. 811–6360]; Van Kampen New York Value Municipal Income Trust [File No. 811–7402]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 28, 2005, each applicant transferred its assets to Van Kampen Trust for Investment Grade New York Municipals, based on net asset value. Each applicant's preferred shares were converted into preferred shares of the acquiring fund on a one-for-one basis. Total expenses of $405,000 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on March 20, 2006.

Applicants' Address: 1221 Avenue of the Americas, New York, NY 10020.

AllianceBernstein All-Asia Investment Fund, Inc. [File No. 811–8776]; AllianceBernstein New Europe Fund, Inc. [File No. 811–6028]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On June 24, 2005 and July 8, 2005, respectively, each applicant transferred its assets to Alliance Bernstein International Research Growth Fund, Inc., based on net asset value. Expenses of $178,459 and $289,651, respectively, incurred in connection with the reorganizations were paid by Alliance Capital Management L.P., applicants' investment adviser.

Filing Dates: The applications were filed on February 3, 2006 and amended on April 7, 2006.

Applicants' Address: 1345 Avenue of the Americas, New York, NY 10105.

Principal Growth Fund, Inc. [File No. 811–1873]; Principal Capital Value Fund, Inc. [File No. 811–1874]; Principal International Fund, Inc. [File No. 811–3183]; Principal Cash Management Fund, Inc. [File No. 811–3585]; Principal Government Securities Income Fund, Inc. [File No. 811–4226]; Principal Tax-Exempt Bond Fund, Inc. [File No. 811–4449]; Principal Balanced Fund, Inc. [File No. 811–5072]; Principal MidCap Fund, Inc. [File No. 811–5171]; Principal Bond Fund, Inc. [File No. 811–5172]; Principal Partners Blue Chip Fund, Inc. [File No. 811–6263]; Principal Equity Income Fund, Inc. [File No. 811–7266]; Principal Limited Term Bond Fund, Inc. [File No. 811–7453]; Principal International Emerging Markets Fund, Inc. [File No. 811–8249]; Principal International SmallCap Fund, Inc. [File No. 811–8251]; Principal Real Estate Securities Fund, Inc. [File No. 811–8379]; Principal SmallCap Fund, Inc. [File No. 811–8381]; Principal LargeCap Stock Index Fund, Inc. [File No. 811–9755]; Principal Partners MidCap Growth Fund, Inc. [File No. 811–9759]; Principal Partners Equity Growth Fund, Inc. [File No. 811–9567]; Principal Partners LargeCap Blend Fund, Inc. [File No. 811–10187]; Principal Partners LargeCap Value Fund, Inc. [File No. 811–10189]; Principal Partners SmallCap Growth Fund, Inc. [File No. 811–10193]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On June 30, 2005, each applicant transferred its assets to a corresponding series of Principal Investors Fund, Inc., based on net asset value. Expenses of approximately $288,209, $185,322, $523,819, $139,339, $135,354, $18,805, $241,947, $339,434, $115,254, $159,813, $85,440, $37,030, $62,963, $68,211, $62,139, $118,287, $56,886, $41,376, $80,570, $52,074, $52,442 and $25,530, respectively, incurred in connection with the reorganizations were paid by the acquired funds and Principal Management Corporation, investment adviser to each applicant.

Filing Dates: The applications were filed on January 3, 2006, and amended on March 28, 2006.

Applicants' Address: 711 High St., Des Moines, IA 50392–2080.

Integrated Arros Fund I [File No. 811–4392]; Integrated Arros Fund II [File No. 811–4393]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 7,

2005, each applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $13,000 incurred in connection with each liquidation will be paid by each applicant out of cash assets retained for that purpose.

Filing Date: The applications were filed on November 18, 2005.

Applicants' Address: IR Pass-Through Corp., c/o Winthrop Management LLC, 7 Bullfinch Pl., Suite 500, PO Box 9507, Boston, MA 02114.

BidFund 2 Percent [File No. 811–21204]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on April 4, 2006.

Applicant's Address: c/o Financial Foundry, LLC, 301 North Harrison St., Suite 185, Princeton, NJ 08540.

NorCap Funds, Inc. [File No. 811–21345]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 3, 2006, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant's investment adviser, Northern Capital Management, LLC, paid all expenses incurred in connection with the liquidation.

Filing Date: The application was filed on April 3, 2006.

Applicant's Address: 8010 Excelsior Dr., Suite 300, Madison, WI 53717.

Access Variable Insurance Trust [File No. 811–21312]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 29, 2005, applicant made a liquidating distribution to its shareholders based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on December 15, 2005 and amended and restated on March 1, 2006.

Applicant's Address: 28050 U.S. Hwy. 19 N, Suite 301, Clearwater, FL 33761.

Mercury V.I. Funds, Inc. [File No. 811–9159]

Summary: Mercury V.I. Funds, Inc. (''Applicant'') seeks an order declaring that it has ceased to be an investment company. The Applicant was merged into the Merrill Lynch Large Cap Growth V.I. Fund, a series of Merrill Lynch Variable Series Funds, Inc., pursuant to an agreement and plan of reorganization filed with the Commission on October 15, 2003. The Applicant incurred expenses of $68,674.96 (approximately) in connection with the merger.

Filing Dates: The application was filed on November 30, 2005, and amended on January 25, 2006.

Applicant's Address: Mercury V.I. Funds, Inc. c/o Merrill Lynch Investment Managers, 800 Scudders Mill Road, Plainsboro, NJ 08536.

Allmerica Investment Trust [File No. 811–4138]

Summary: Allmerica Investment Trust (''Applicant'') seeks an order declaring that it has ceased to be an investment company. The Applicant was merged into the Goldman Sachs Variable Insurance Trust, pursuant to an agreement and plan of reorganization filed with the Commission on October 31, 2005. Expenses in connection with the merger were shared equally between the merged fund and the surviving fund.

Filing Dates: The application was filed on February 14, 2006, and amended on April 7, 2006.

Applicant's Address: Allmerica Investment Trust, 440 Lincoln Street, Worcester, MA 01653.

Mercury Variable Trust [File No. 811–8163]

Summary: Mercury Variable Trust. (''Applicant'') seeks an order declaring that it has ceased to be an investment company. The Applicant was merged into the Merrill Lynch International Value V.I. Fund, a series of Merrill Lynch Variable Series Funds, Inc., pursuant to an agreement and plan of reorganization filed with the Commission on October 15, 2003. The Applicant incurred expenses of $195,735.59 (approximately) in connection with the merger.

Filing Dates: The application was filed on November 30, 2005, and amended on January 25, 2006.

Applicant's Address: Mercury Variable Trust c/o Merrill Lynch Investment Managers, 800 Scudders Mill Road, Plainsboro, NJ 08536.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–6912 Filed 5–5–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27309; 812–12974]

Wells Fargo Funds Trust, et al.; Notice of Application

May 1, 2006.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act for an exemption from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility (''Credit Facility'').

APPLICANTS: Wells Fargo Funds Trust (''Funds Trust''), Wells Fargo Variable Trust (''Variable Trust''), and Wells Fargo Master Trust (''Master Trust'') (collectively, the ''Trusts'') and Wells Fargo Funds Management, LLC (''Funds Management'').

FILING DATES: The application was filed on May 14, 2003 and amended on April 27, 2006.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 26, 2006, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, 525 Market Street, 12th Floor, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–

6870, or Nadya B. Roytblat, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. Each Trust is registered under the Act as an open-end management investment company and is organized as a Delaware business trust.[1] Responsibility for the overall management of the Trusts rests with each Trust's respective board of trustees (each, a ''Board''). Funds Management is registered under the Investment Advisers Act of 1940. Funds Management serves as investment adviser to the Funds. An existing Commission order permits certain Funds that are not money market Funds to invest uninvested cash balances in one or more money market Funds that comply with rule 2a-7 under the Act (''Money Market Funds'').[2]

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or other short-term instruments. Other Funds may borrow money from the same or similar banks or other entities for temporary purposes to satisfy redemption requests, to cover unanticipated cash shortfalls such as a trade ''fail'' in which cash payment for a security sold by a Fund has been delayed, or for other temporary purposes. Currently, the Funds have an overdraft provision with their custodian bank and committed lines of credit.

3. If the Funds were to borrow money from their custodian bank or through their lines of credit, the Funds would pay interest on the borrowed cash at a rate that would be higher than the rate that would be earned by other (non-borrowing) Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants state that this differential represents the profit the banks would earn for serving as a middleman between a borrower and a lender. In addition, while bank borrowings generally could supply needed cash to cover unanticipated redemptions and sales fails, the borrowing Funds would incur fees, interest and/or other charges involved in obtaining a bank loan.

4. Applicants request an order that would permit the Funds to enter into master interfund lending agreements (''Interfund Lending Agreements'') that would permit each Fund to lend money directly to and borrow directly from other Funds (''Interfund Loan''). Applicants believe that the Credit Facility would reduce the Funds' potential borrowing costs and enhance their ability to earn higher rates of interest on short-term lendings. Although the Credit Facility would reduce the Funds' need to borrow from banks, the Funds would be free to establish and/or continue committed lines of credit or other borrowing arrangements with banks.

5. Applicants anticipate that the Credit Facility would provide a borrowing Fund with cost savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are paid immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The Credit Facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the Credit Facility when a sale of securities fails due to circumstances beyond a Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the Fund has undertaken to purchase a security with the proceeds from securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional costs to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the Credit Facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While bank borrowings could generally supply needed cash to cover unanticipated redemptions and sales fails, under the Credit Facility a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash balances in repurchase agreements or in short-term investments. Thus, applicants believe that the Credit Facility would benefit both borrowing and lending Funds.

8. The interest rate charged to the Funds on any Interfund Loan (the ''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate on any day would be the highest rate available to the Funds from investments in overnight repurchase agreements. The Bank Loan Rate for any day would be calculated by the Interfund Lending Committee, as defined below, on each day an Interfund Loan is made according to a formula approved by the Boards intended to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (*e.g.*, Federal funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. Each Board periodically would review the continuing appropriateness of using the publicly available rate used to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Board.

9. The Credit Facility would be administered by investment professionals and administrative personnel from Funds Management (the ''Interfund Lending Committee''). No portfolio manager of any Fund will serve as a member of the Interfund Lending Committee. Under the Credit Facility, the portfolio managers for each participating Fund could provide

[1] Applicants request that the relief apply to (i) the Trusts and their existing and future series (''Funds''), (ii) Funds Management and any successor entity to Funds Management, and (iii) any other registered open-end management investment company or its series advised by Funds Management or a person controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with Funds Management (included in the term ''Funds''). The term ''successor'' is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization. All existing investment companies that currently intend to rely on the requested relief are named as applicants. Any other existing or future Funds that subsequently rely on the requested order will comply with the terms and conditions in the application.

[2] In the Matter of Stagecoach Funds, Inc., *et al.*, Investment Company Act Release Nos. 23237 (June 2, 1998) (notice) and 23294 (June 30, 1998) (order).

standing instructions to participate daily as a borrower or lender. On each business day, the Interfund Lending Committee would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodian(s). The Money Market Funds would not participate as borrowers. Once it has determined the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Committee would allocate loans among borrowing Funds without any further communication from portfolio managers. Applicants expect far more available uninvested cash each day than borrowing demand. After allocating cash for Interfund Loans, the Interfund Lending Committee will invest any remaining cash in accordance with the standing instructions of portfolio managers or return remaining amounts for investment directly by the portfolio manager of the applicable Fund.

10. The Interfund Lending Committee would allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Committee believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each Interfund Loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction.

11. The Interfund Lending Committee would (a) monitor the interest rates charged and the other terms and conditions of the loans, (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (c) ensure equitable treatment of each Fund, and (d) make quarterly reports to each Board concerning any transactions by the Funds under the Credit Facility and the interest rates charged. The method of allocation and related administrative procedures would be approved by each Board, including a majority of trustees who are not ''interested persons'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. Funds Management, through the Interfund Lending Committee, would administer the Credit Facility as part of its duties under its advisory contract and administrative contract with each Fund and would receive no compensation for its services.

13. No Fund may participate in the Credit Facility unless (a) the Fund has obtained shareholder approval for its participation, if such approval is required by law, (b) the Fund has fully disclosed all material information concerning the Credit Facility in its prospectus and/or statement of additional information (''SAI''), and (c) the Fund's participation in the Credit Facility is consistent with its organizational documents and its investment policies and limitations.

14. In connection with the Credit Facility, applicants request an order under (a) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having Funds Management as their common investment adviser, and\or by reason of having common officers and/or trustees.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the Credit Facility transactions do not raise these concerns because (a) Funds Management, through the Interfund Lending Committee, would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that a Fund otherwise would invest in short-term repurchase agreements or other short-term instruments; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1) of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1) of the Act are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and

21(b) of the Act and for the reasons discussed below.

5. Applicants state that section 12(d)(1) of the Act was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investments. Applicants submit that the Credit Facility does not involve those abuses. Applicants note that there would be no duplicative costs or fees to the Funds or to Fund shareholders, and that Funds Management would receive no additional compensation for its services in administering the Credit Facility. Applicants also note that the purpose of the Credit Facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coverage of at least 300% for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the Credit Facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) of the Act is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) of the Act that all borrowings of a Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the Credit Facility is consistent with the purposes and policies of section 18(f)(1) of the Act.

8. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the Commission. Rule 17d–1 provides that in passing upon applications filed under the rule, the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the Credit Facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the Credit Facility would be on terms no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rate to be charged to the Funds under the Credit Facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, the Interfund Lending Committee will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) more favorable to the lending Fund than the Repo Rate and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the Credit Facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the Credit Facility on a secured basis only. A Fund may not borrow through the Credit Facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the Credit Facility if the loan would cause its aggregate outstanding loans through the Credit Facility to

exceed 15% of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the Credit Facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the Credit Facility must be consistent with its investment policies and limitations and organizational documents.

12. The Interfund Lending Committee will calculate total Fund borrowing and lending demand through the Credit Facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Interfund Lending Committee will not solicit cash for the Credit Facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Interfund Lending Committee will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to Funds for investment directly by the Funds.

13. The Interfund Lending Committee will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board of each Fund concerning the participation of the Fund in the Credit Facility and the terms and other conditions of any extensions of credit under the facility.

14. The Boards of the Funds, including a majority of the Independent Trustees: (a) will review no less frequently than quarterly each Fund's participation in the Credit Facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, approve any modifications thereto, and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the Credit Facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Interfund Lending Committee will promptly refer such loan for arbitration to an independent arbitrator selected by the Board of any Fund involved in the loan who will serve as the arbitrator of disputes concerning Interfund Loans.[3] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the Credit Facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and such other information presented to the Fund's Board in connection with the review required by conditions 13 and 14.

17. The Interfund Lending Committee will prepare and submit to the Boards for review an initial report describing the operations of the Credit Facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operation of the Credit Facility, the Interfund Lending Committee will report on the operations of the Credit Facility at the quarterly meetings of each Fund's Board. In addition, for two years following the commencement of the Credit Facility, the independent public accountant for each Fund shall prepare an annual report that evaluates the Interfund Lending Committee's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 10 and it shall be filed pursuant to Item 77Q3 of Form N–SAR, as such Statements or Form may be revised, amended, or superseded from time to time. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by each Board; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any outstanding third party borrowings of a borrowing Fund at the time of the Interfund Loan. After the final report is filed, the independent public accountant for the Fund in connection with Fund audit examinations, will continue to review the operation of the Credit Facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the Credit Facility unless it has fully disclosed in its prospectus or SAI all material facts about its intended participation.

19. The Board of each Fund will satisfy the fund governance standards as defined in Rule 0–1(a)(7) under the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E6–6913 Filed 5–5–06; 8:45 am]

BILLING CODE 8010–01–P

[3] If the dispute involves Funds with different Boards, the respective Board of each Fund will select an independent arbitrator that is satisfactory to each of them.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

MCSi, Inc.; Order of Suspension of Trading

May 4, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MCSi, Inc., because it has not filed a periodic report since the quarter ending September 30, 2002.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on May 4, 2006, through 11:59 p.m. EDT on May 17, 2006.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. 06–4304 Filed 5–4–06; 11:25 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–53748; File No. SR–NASD–2006–055

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of a Proposed Rule Change To Require Members To Report All Transactions that Must Be Reported to NASD and Are Subject to a Regulatory Transaction Fee to the Nasdaq Market Center and/or the Trade Reporting and Comparison Service

May 2, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 21, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend Section 3 of Schedule A to the NASD By-Laws (''Section 3''), to require members to report all transactions that must be reported to NASD and that are subject to a regulatory transaction fee pursuant to Section 3 to the Nasdaq Market Center (''NMC'') and/or the Trade Reporting and Comparison Service (''TRACS''). In addition, NASD is proposing new provisions in NASD Rules 6130 and 6130A that would expressly require members to report odd-lot transactions, away from the market sales, and OTC options with special indicators denoting that such transactions are reported in accordance with Section 3.

The text of the proposed rule change is available on NASD's Web site (*http://www.nasd.com*). from NASD's principal office, and at the Commission's Public Reference Room. The text of the proposed rule change also appears below. Proposed new language is *italicized*; proposed deletions are in brackets.[3]

SCHEDULE A TO NASD BY-LAWS

* * * * *

Section 3—Regulatory Transaction Fee

Each member shall be assessed a regulatory transaction fee. The amount shall be determined periodically in accordance with Section 31 of the Act. *Transactions assessable under this Section 3 that must be reported to NASD shall be reported in an automated manner.*

* * * * *

4000. THE NASDAQ STOCK MARKET

* * * * *

4600. NASDAQ MARKET MAKER REQUIREMENTS

* * * * *

4630. Reporting Transactions in Nasdaq National Market Securities

* * * * *

4632. Transaction Reporting

(a) through (d) No Change.

(e) Transactions Not [Required] To Be Reported *For Publication Purposes*

The following types of transactions shall not be reported *for publication purposes:*

(1) through (6) No Change.

(f) through (g) No Change.

* * * * *

4640. Reporting Transactions in Nasdaq Capital Market Securities

* * * * *

4642. Transaction Reporting

(a) through (d) No Change.

(e) Transactions Not [Required] To Be Reported *For Publication Purposes*

The following types of transactions shall not be reported *for publication purposes:*

(1) through (5) No Change.

(f) through (g) No Change.

* * * * *

4000A. NASD ALTERNATIVE DISPLAY FACILITY

* * * * *

4600A. TRADING IN NASDAQ SECURITIES

* * * * *

4632A. Transactions Reported by Members

(a) through (j) No Change.

(k) Transactions Not To Be Reported To NASD *For Publication Purposes*

The following types of transactions effected by NASD members shall not be reported to TRACS for publication purposes:

(1) through (5) No Change.

(I) No Change.

* * * * *

6000. NASD SYSTEMS AND PROGRAMS

6100. TRADE REPORTING SERVICE

* * * * *

6130. Trade Report Input

(a) through (f) No Change.

(g) Reporting Certain Transactions for Purposes of Regulatory Transaction Fee Assessment

The following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must be reported to the Nasdaq Market Center as prescribed below. Transactions must be submitted to the Nasdaq Market Center by 6:30 p.m. Eastern Time (or the end of the Nasdaq Market Center reporting session that is in effect at that time).

(1) Odd-Lot Transactions

Transactions for less than a normal unit of trading shall be reported to the Nasdaq Market Center with a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall be reported to the Nasdaq Market Center with a modifier of .RA to designate the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NASD has filed another proposed rule change, SR–NASD–2005–087, which, among other things, proposed a new Trade Reporting Facility. If this filing is approved prior to that filing, the Trade Reporting Facility rules would be amended to make conforming changes with this proposal. However, if SR–NASD–2005–087 is approved prior to the approval of this filing, this filing will be amended to make conforming changes with the Trade Reporting Facility rules.

transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Transactions effected pursuant to the exercise of an OTC option shall be reported to the Nasdaq Market Center with a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

* * * * *

6400. REPORTING TRANSACTIONS IN LISTED SECURITIES

* * * * *

6420. Transaction Reporting

(a) through (d) No Change.

(e) Transactions Not [Required] To Be Reported *For Publication Purposes*

The following types of transactions shall not be reported for inclusion on the Consolidated Tape:

(1) through (8) No Change.

(f) No Change.

* * * * *

6620. Transaction Reporting

(a) through (d) No Change.

(e) Transactions Not [Required] To Be Reported *For Publication Purposes*

The following types of transactions shall not be reported *for publication purposes:*

(1) through (4) No Change.

(f) No Change.

* * * * *

6000A. NASD ADF SYSTEMS AND PROGRAMS

6100A. TRACS TRADE COMPARISON SERVICE

* * * * *

6130A. Trade Report Input

(a) through (b) No Change.

(c) Reporting Certain Transactions for Purposes of Regulatory Transaction Fee Assessment

The following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must be reported to TRACS as prescribed below. Transactions must be submitted to TRACS by 6:30 p.m. Eastern Time (or the end of the TRACS reporting session that is in effect at that time).

(1) Odd-Lot Transactions

Transactions for less than a normal unit of trading shall be reported to TRACS with a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall be reported to TRACS with a modifier of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Transactions effected pursuant to the exercise of an OTC option shall be reported to TRACS with a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Section 31 of the Act,[4] NASD and the national securities exchanges are required to pay transaction fees and assessments to the Commission that are designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. NASD obtains funds to pay its Section 31 fees and assessments from its membership, in accordance with Section 3. Currently, most of the transactions that are assessable under Section 3 are reported to NASD through automated facilities, because most transactions must be reported to NMC or TRACS pursuant to NASD trade reporting rules. NASD is able to use the transaction data reported to NMC and TRACS for Section 3 billing purposes. Member firms, however, are currently required to manually self-report covered sales of odd-lots, away from the market sales, and exercises of OTC options because these transactions are not otherwise required to be reported to NMC or TRACS.

To improve NASD's programs related to compliance with Section 31 of the Act and Rule 31 thereunder,[5] NASD is proposing to require NASD member firms to report all covered sales that must be reported to NASD and that are assessed under Section 3 in an automated manner. While the current manual self-reporting process has allowed NASD to meet its obligations under Section 31 of the Act, there have been instances when some members filed their self-reporting form late or amended previous forms in later months to include additional covered sales volume. NASD believes that requiring automated reporting of such covered sales would facilitate efficient, accurate, and timely reporting. Automated reporting would also reduce the burden on members that results from manually reporting certain transactions to NASD. In addition, the mandatory reporting of odd-lots and other transactions would enhance the regulatory audit trail while not providing distortive information to the publicly disseminated tape.

To fully automate NASD's procedures for assessing the regulatory transaction fee, NASD is proposing to amend: (1) Section 3 to create an affirmative obligation to report, in an automated manner, all covered sales that must be reported to NASD for purposes of Section 3; (2) NASD Rules 6130 and 6130A to require that members report all transactions reportable to NASD and subject to the regulatory transaction fee pursuant to Section 3 to NMC or TRACS and to identify certain transactions submitted specifically for a regulatory transaction fee assessment with a special indicator denoting their purpose; [6] and (3) NASD Rules 4632,

[4] 15 U.S.c. 78ee.

[5] 17 CFR 240.31.

[6] NASD proposes to use the following modifiers for purposes of reporting to the NMC or TRACS certain transaction that are subject to the regulatory transaction fee under Section 3: (1) .RO to designate odd-lot transactions; (2) .RA to designate transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security; and (3) .RX to

4642, 4632A, 6420, and 6620 governing trade reporting that currently prohibit member firms from reporting odd-lot transactions, away from the market sales, and OTC options, as well as other identified transactions, to clarify that the prohibition found in the transaction reporting rules is limited to the submission of a transaction for publication purposes.[7]

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval, if the Commission approves this proposal. The effective date would be at least 90 days following publication of the *Notice to Members* announcing Commission approval to allow firms sufficient time to make any necessary systems changes.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that requiring members to report, in an automated manner, all transactions that must be reported to NASD and are subject to the regulatory transaction fee would ensure more accurate and timely reporting of such transactions and would reduce the burden on members that results from manually reporting certain transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

designate transactions effected pursuant to the exercise of an OTC option.

[7] The proposed amendments to NASD Rules 4632A and 6420 solely amend the headings of NASD Rules 4632A(k) and 6420(e), respectively. The text of these rules does not need to be amended because it already stated that the prohibition on reporting the identified transactions is limited to the submission of a transaction for publication purposes (or in the case of listed securities, for inclusion on the Consolidated Tape).

[8] 15 U.S.C. 78*o*–3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–055 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–055. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–055 and should be submitted on or before May 30, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. 06–4280 Filed 5–5–06; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53743; File No. SR–NASD–2006–045]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Rule 2520 (Margin Requirements)

April 28, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 3, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD has designated the proposed rule change as constituting a ''non-controversial'' rule change pursuant to section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rules 2520 and 2522 that will revise the margin requirements to (1) recognize specific additional complex option

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). NASD gave the Commission written notice of its intent to file this proposed rule change on March 24, 2006.

spread strategies for purposes of determining required margin and (2) amend the provisions relating to ''permitted offsets'' for certain listed option transactions.

The text of the proposed rule change is below. Proposed new language is italicized; deletions are in brackets.

* * * * *

2520. Margin Requirements

(a) through (e) No Change.

(f) Other Provisions

(1) No Change.

(2) Puts, Calls and Other Options, Currency Warrants, Currency Index Warrants and Stock Index Warrants

(A) through (B) No Change.

(C) For purposes of this subparagraph (f)(2), obligations issued by the United States Government shall be referred to as United States Government obligations. Mortgage pass-through obligations guaranteed as to timely payment of principal and interest by the Government National Mortgage Association shall be referred to as GNMA obligations.

In the case of any put, call, currency warrant, currency index warrant, or stock index warrant carried ''long'' in a customer's account that expires in nine months or less, initial margin must be deposited and maintained equal to at least 100% of the purchase price of the option or warrant.

Long Listed Option or Warrant With An Expiration Exceeding Nine Months. In the case of a put, call, index stock group option, or stock index warrant that is issued by a registered clearing agency, margin must be deposited and maintained equal to at least 75% of the current market value of the option or warrant; provided that the option or warrant has a remaining period to expiration exceeding nine months.

Long OTC Option or Warrant With An Expiration Exceeding Nine Months. In the case of a[n OTC] put*,* [or]call*, index stock group* option,*[* on a stock or stock index, and a] *or* stock index warrant[,] *carried long that is not issued by a registered clearing agency[* with an expiration exceeding 9 months], margin must be deposited and maintained equal to at least 75% of the option's or warrant's *''*in-the-money*''* amount *plus 100% of the amount, if any, by which the current market value of the option or warrant exceeds its ''in-the-money'' amount provided the option or warrant:*[. Options or warrants margined pursuant to this paragraph must:]

(i) [be valued at all times for margin purposes at an amount not to exceed, the in-the-money amount,]

[(ii) be]*is* guaranteed by the carrying broker-dealer, [and]

(ii) [(iii) have]*has* an American-style exercise provision, *and*

(iii) has a remaining period to expiration exceeding nine months.

(D) through (F) No Change.

(G) (i) through (iv) No Change.

(v) The following requirements set forth the minimum amount of margin that must be maintained in margin accounts of customers having positions in components underlying options, and stock index warrants, when such components are held in conjunction with certain positions in the overlying option or warrant. The option or warrant must be issued by a registered clearing agency or guaranteed by the carrying broker/dealer. In the case of a call or warrant carried in a short position, a related long position in the underlying component shall be valued at no more than the call/warrant exercise price for margin equity purposes.

a. Long Option or Warrant Offset. When a component underlying an option or warrant is carried long (short) in an account in which there is also carried a long put (call) or warrant specifying equivalent units of the underlying component, the minimum amount of margin that must be maintained on the underlying component is 10% of the [aggregate] option/warrant exercise price plus the ''out-of-the-money'' amount, not to exceed the minimum maintenance required pursuant to paragraph (c) of this Rule.

b. Conversions. When a call or warrant carried in a short position is covered by a long position in equivalent units of the underlying component and [there] is also carried with a long put or warrant specifying equivalent units of the same underlying component and having the same exercise price and expiration date as the short call or warrant, the minimum amount of margin that must be maintained for the underlying component shall be 10% of the [aggregate] exercise price.

c. Reverse Conversions. When a put or warrant carried in a short position is covered by a short position in equivalent units of the underlying component and is also carried with a long call or warrant specifying equivalent units of the same underlying component and having the same exercise price and expiration date as the short put or warrant, the minimum amount of margin that must be maintained for the underlying component shall be 10% of the [aggregate] exercise price plus the amount by which the exercise price of the put exceeds the current market value of the underlying, if any.

d. Collars. When a call or warrant carried in a short position is covered by a long position in equivalent units of the underlying component and is also carried with a long put or warrant specifying equivalent units of the same underlying component and having a lower exercise price and the same expiration date as the short call/warrant, the minimum amount of margin that must be maintained for the underlying component shall be the lesser of 10% of the [aggregate] exercise price of the put plus the put ''out-of-the-money'' amount or 25% of the call aggregate exercise price.

e. Butterfly Spread. This subparagraph applies to a butterfly spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer.

1. No Change.

2. With respect to a short butterfly spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the [aggregate] difference between the two lowest exercise prices with respect to short butterfly spreads comprised of calls or the [aggregate] difference between the two highest exercise prices with respect to short butterfly spreads comprised of puts. The net proceeds from the sale of short option components may be applied to the requirement.

f. Box Spread. This subparagraph applies to box spreads as defined in Rule 2522, where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer.

1. With respect to a long box spread as defined in Rule 2522*,* the net debit must be paid in full.

2. With respect to a short box spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the [aggregate] difference between the exercise prices. The net proceeds from the sale of the short option components may be applied to the requirement.

g. Long Box Spread in European-Style Options. With respect to a long box spread as defined in Rule 2522, in which all component options have a European-style exercise provision and are issued by a registered clearing agency or guaranteed by the carrying broker/dealer, margin must be deposited and maintained equal to at least 50% of the [aggregate] difference in the exercise prices. The net proceeds from the sale of short option components may be applied to the requirement. For margin purposes, the long box spread may be valued at an amount not to exceed

100% of the [aggregate] difference in the exercise prices.

h. Long Condor Spread. This subparagraph applies to a long condor spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a long condor spread as defined in Rule 2522, the net debit must be paid in full.

i. Short Iron Butterfly Spread. This subparagraph applies to a short iron butterfly spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a short iron butterfly spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the exercise price interval. The net proceeds from the sale of short option components may be applied to the requirement.

j. Short Iron Condor Spread. This subparagraph applies to a short iron condor spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a short iron condor spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the exercise price interval. The net proceeds from the sale of short option components may be applied to the requirement.

k. Long Calendar Butterfly Spread. This subparagraph applies to a long calendar butterfly spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a long calendar butterfly spread as defined in Rule 2522, the net debit must be paid in full.

l. Long Calendar Condor Spread. This subparagraph applies to a long calendar condor spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a long calendar condor spread as defined in Rule 2522, the net debit must be paid in full.

m. Short Calendar Iron Butterfly Spread. This subparagraph applies to a short calendar iron butterfly spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a short calendar iron butterfly spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the exercise price interval. The net proceeds from the sale of short option components may be applied to the requirement.

n. Short Calendar Iron Condor Spread. This subparagraph applies to a short calendar iron condor spread as defined in Rule 2522 where all option positions are issued by a registered clearing agency or guaranteed by the carrying broker/dealer. With respect to a short calendar iron condor spread as defined in Rule 2522, margin must be deposited and maintained equal to at least the amount of the exercise price interval. The net proceeds from the sale of short option components may be applied to the requirement.

(H) through (I) No Change.

(J) (i) Registered specialists, market makers or traders—Notwithstanding the other provisions of this subparagraph (f)(2), a member may clear and carry the listed option transactions of one or more registered specialists, registered market makers or registered traders in options (*whereby*[which] registered traders are deemed specialists for all purposes under the Act, pursuant to the rules of a national securities exchange) (hereinafter referred to as ''specialist(s)''), upon a ''Good Faith'' margin basis satisfactory to the concerned parties, provided the ''Good Faith'' margin requirement[s] is not less than the Net Capital haircut deduction of the member [organization] carrying the transaction pursuant to SEC Rule 15c3–1 under the Act. In lieu of collecting the ''Good Faith'' margin requirement, a carrying member [organization] may elect to deduct in computing its Net Capital the amount of any deficiency between the equity maintained in the account and the ''Good Faith'' margin required.

For purposes of this paragraph (f)(2)(J), a permitted offset position means, in the case of an option in which a specialist *or market maker* makes a market, a position in the underlying asset or other related assets, and in the case of other securities in which a specialist *or market maker* makes a market, a position in options overlying the securities in which a specialist *or market maker* makes a market. Accordingly, a specialist or market maker in options may establish, on a share-for-share basis, a long or short position in the securities underlying the options in which the specialist *or market maker* makes a market, and a specialist *or market maker* in securities other than options may purchase or write options overlying the securities in which the specialist *or market maker* makes a market, if the account holds the following permitted offset positions:

a. A short option position which [is ''in or at the money'' and] is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is ''in the money'';

b. A long option position which [is ''in or at the money'' and] is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is ''in the money'';

c. A short option position against which an exercise notice was tendered;

d. A long option position which was exercised;

e. A net long position in a security (other than an option) in which a specialist *or market maker* makes a market;

f. A net short position in a security (other than an option) in which the specialist *or market maker* makes a market; or

g. A specified portfolio type as referred to in SEC Rule 15c3–1, including its appendices, or any applicable SEC staff interpretation or no-action position.

Permitted offset transactions must be effected for *specialist or* market making purposes such as hedging, risk reduction, rebalancing of positions, liquidation, or accommodation[s] of customer orders, or other similar [market making]*specialist or market maker* purpose. *The specialist or market maker must be able to demonstrate compliance with this provision.*

For purposes of this paragraph (f)(2)(J) [the term ''in or at the money'' means the current market price of the underlying security is not more than two standard exercise intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option;] the term ''in the money'' means the current market price of the underlying asset or index is not below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; and, the term ''overlying option'' means a put option purchased or a call option written against a long position in an underlying asset; or a call option purchased or a put option written against a short position in an underlying asset.

(ii) Securities, including options, in such accounts shall be valued conservatively in the light of current market prices and the amount which might be realized upon liquidation. Substantial additional margin must be required or excess [n]*N*et [c]*C*apital maintained in all cases where the securities carried:

a. through b. No Change.

c. In one or more or all accounts, including proprietary accounts

combined, are such that they cannot be liquidated promptly or represent undue concentration of risk in view of the carrying member's [n]*N*et [c]*C*apital and its overall exposure to material loss.

(K) through (L) No Change.

(M) Cash account transactions—A member may make option transactions in a customer's cash account, provided that:

(i) No Change.

(ii) Spreads. A European-style cash-settled index stock group option or stock index warrant carried in a short position is deemed a covered position, and eligible for the cash account, provided a long position in a European-style cash-settled stock group index option, or stock index warrant having the same underlying component or index that is based on the same aggregate current underlying value, is held in or purchased for the account on the same day, provided that:

a. through b. No Change.

c. There is held in the account at the time the positions are established, or received into the account promptly thereafter:

1. Cash or cash equivalents of not less than any amount by which the [aggregate] exercise price of the long call or call warrant (short put or put warrant) exceeds the [aggregate] exercise price of the short call or call warrant (long put or put warrant), to which [requirement of] net proceeds from the sale of the short position may be applied, or

2. An escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement i. cash, ii. cash equivalents, or iii. a combination thereof having an aggregate market value at the time the positions are established of not less than any amount by which the [aggregate] exercise price of the long call or call warrant (short put or put warrant) exceeds the [aggregate] exercise price of a short call or call warrant (long put or put warrant) and that the bank will promptly pay the member such amount in the event the account is assigned an exercise notice or that the bank will promptly pay the member funds sufficient to purchase a warrant sold short in the event of a buy-in.

d. No Change.

(iii) *Long* Butterfly Spreads, *Short Butterfly Spreads, Long Condor Spreads, Short Iron Butterfly Spreads, or Short Iron Condor Spreads.* Put or call options carried in a short position are deemed covered positions and eligible for the cash account provided that the account contains long positions of the same type which in conjunction with the short options, constitute a *long* butterfly spread, *short butterfly spread, long condor spread, short iron butterfly spread, or short iron condor spread* as defined in Rule 2522 and provided that:

a. through d. No Change.

e. *All components options expire concurrently;*

[e]*f.* With respect to a long butterfly spread *or long condor spread* as defined in Rule 2522, the net debit is paid in full; and

[f]*g.* With respect to a short butterfly spread, *short iron butterfly spread or short iron condor spread* as defined in Rule 2522, there is held in the account at the time the positions are established or received into the account promptly thereafter:

1. Cash or cash equivalents of not less than the amount of the [aggregate] difference between the two lowest exercise prices with respect to short butterfly spreads comprised of call options or the [aggregate] difference between the two highest exercise prices with respect to short butterfly spreads comprised [or] *of* put options, to which [requirement] the net proceeds from the sale of short option components may be applied; or

2. An escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement i. cash, ii. cash equivalents or iii. a combination thereof having an aggregate market value at the time the positions are established of not less than the amount of the [aggregate] difference between the two lowest exercise prices with respect to short butterfly spreads comprised of calls or the [aggregate] difference between the two highest exercise prices with respect to short butterfly spreads comprised of puts and that the bank will promptly pay the member such amount in the event the account is assigned an exercise notice on the call (put) with the lowest (highest) exercise price.

(iv) Box Spreads. Puts and calls carried in a short position are deemed covered positions and eligible for the cash account provided that the account contains long positions which in conjunction with the short options constitute a box spread as defined in Rule 2522 provided that:

a. through d. No Change.

e. *All component options expire concurrently;*

[e]*f.* With respect to a long box spread as defined in Rule 2522, the net debit is paid in full; and

[f]*g.* With respect to a short box spread as defined in Rule 2522, there is held in the account at the time the positions are established, or received into the account promptly thereafter:

1. Cash or cash equivalents of not less than the amount of the [aggregate] difference between the exercise prices, to which [requirement] the net proceeds from the sale of short option components may be applied; or

2. An escrow agreement.

The escrow agreement must certify that the bank holds for the account of the customer as security for the agreement i. cash, ii. cash equivalents or iii. a combination thereof having an aggregate market value at the time the positions are established of not less than the amount of the [aggregate] difference between the exercise prices and that the bank will promptly pay the member such amount in the event the account is assigned an exercise notice on either short option.

(3) through (11) No Change.

* * * * *

2522. Definitions Related to Options, Currency Warrants, Currency Index Warrants and Stock Index Warrants Transactions.

(a) The following definitions shall apply to the margin requirements for options, currency warrants, currency index warrants and stock index warrants transactions:

(1) through (5) No Change.

(6) Box Spread.

The term ''box spread'' means an aggregation of positions in a long call and short put with the same exercise price (''buy side'') coupled with a long put and short call with the same exercise price (''sell side'') [all of which have the same underlying component or index and time of expirations, and are based on the same aggregate current underlying value, and are] structured as[;]*:* (A) a ''long box spread'' in which the sell side exercise price exceeds the buy side exercise price or (B) a ''short box spread'' in which the buy side exercise price exceeds the sell side exercise price[.]*, all of which have the same contract size, underlying component or index and time of expiration, and are based on the same aggregate current underlying value.*

(7) through (8) No Change.

(9) Butterfly Spread

The term ''butterfly spread'' means an aggregation of positions in three series of either puts or calls, [all having the same underlying component or index, and time of expiration, and based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, which positions are] structured as either: (A) a ''long butterfly spread'' in which two short options in the same

series are offset by one long option with a higher exercise price and one long option with a lower exercise price or (B) a ''short butterfly spread'' in which two long options in the same series offset one short option with a higher exercise price and one short option with a lower exercise price[.]*, all of which have the same contract size, underlying component or index and time of expiration, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, and the exercise prices are in ascending order.*

(10) Calendar Spread

The term ''calendar spread'' or ''time spread'' means the sale of one option and the simultaneous purchase of another option of the same type, both specifying the same underlying component with the same exercise price or different exercise prices, where the ''long'' option expires after the ''short'' option.

(10) through (22) renumbered as (11) through (23).

[(23)]*(24)* Escrow Agreement

The term ''escrow agreement,'' when used in connection with cash settled calls, puts, currency warrants, currency index warrants, or stock index warrants carried short, means any agreement issued in a form acceptable to [the Association]*NASD* under which a bank holding cash, cash equivalents, one or more qualified equity securities or *a* combination thereof in the case of a call [option] or warrant or cash, cash equivalents or a combination thereof in the case of a put [option] or warrant is obligated (in the case of an option) to pay the creditor the exercise settlement amount in the event an option is assigned an exercise notice or, (in the case of a warrant) the funds sufficient to purchase a warrant sold short in the event of a buy-in.

[The term ''escrow agreement'' when used in connection with non cash settled call or put options carried short, means any agreement issued in a form acceptable to the Association under which a bank holding the underlying security (in the case of a call option) or required cash or cash equivalents or a combination thereof (in the case of a put option) is obligated to deliver to the creditor (in the case of a call option) or accept from the creditor (in the case of a put option) the underlying security against payment of the exercise price in the event of the call or put is assigned an exercise notice.]

(24) through (40) renumbered as (25) through (41).

(42) Long Calendar Butterfly Spread

The term ''long calendar butterfly spread'' means an aggregation of positions in three series of either puts or calls, structured as two short options with the same exercise price, offset by a long option with a lower exercise price and a long option with a higher exercise price, all of which have the same contract size, underlying component or index, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, the exercise prices are in consecutive order, and one long option expires after the other three options expire concurrently. However, a long calendar butterfly spread cannot be composed of cash-settled, European-style index options. This strategy can also be considered a combination of one long calendar spread and one long butterfly spread, as defined in this rule.

(43) Long Calendar Condor Spread

The term ''long calendar condor spread'' means an aggregation of positions in four series of either puts or calls, structured as a long option with the lowest exercise price, two short options with the next two consecutively higher exercise prices and a long option with the highest exercise price, all of which have the same contract size, underlying component or index, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, the exercise prices are in consecutive order, and one long option expires after the other three options expire concurrently. However, a long calendar condor spread cannot be composed of cash-settled, European-style index options. This strategy can also be considered a combination of one long calendar spread and two long butterfly spreads, as defined in this rule.

(44) Long Condor Spread

The term ''long condor spread'' means an aggregation of positions in four series of either puts or calls, structured as a long option with the lowest exercise price, two short options with the next two consecutively higher exercise prices and a long option with the highest exercise price, all of which have the same contract size, underlying component or index and time of expiration, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, and the exercise prices are in consecutive order. This strategy can also be considered a combination of two long butterfly spreads, as defined in this rule.

(41) through (60) renumbered as (45) through (64).

(65) Short Calendar Iron Butterfly Spread

The term ''short calendar iron butterfly spread'' means an aggregation of positions in two series of puts and two series of calls, structured as a short put and a short call with the same exercise price, offset by a long put with a lower exercise price and a long call with a higher exercise price, all of which have the same contract size, underlying component or index, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, the exercise prices are in consecutive order, and one long option expires after the other three options expire concurrently. However, a short calendar iron butterfly spread cannot be composed of cash-settled, European-style index options. This strategy can also be considered a combination of one long calendar spread, one long butterfly spread, and one short box spread, as defined in this rule.

(66) Short Calendar Iron Condor Spread

The term ''short calendar iron condor spread'' means an aggregation of positions in two series of puts and two series of calls, structured as a long put with the lowest exercise price, a short put and a short call with the next two consecutively higher exercise prices and a long call with the highest exercise price, all of which have the same contract size, underlying component or index, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, the exercise prices are in consecutive order, and one long option expires after the other three options expire concurrently. However, a short calendar iron condor spread cannot be composed of cash-settled, European-style index options. This strategy can also be considered a combination of one long calendar spread, two long butterfly spreads, and one short box spread, as defined in this rule.

(67) Short Iron Butterfly Spread

The term ''short iron butterfly spread'' means an aggregation of positions in two series of puts and two series of calls, structured as a short put and a short call with the same exercise price, offset by a long put with a lower exercise price and a long call with a higher exercise price, all of which have the same contract size, underlying component or index and time of expiration, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, and the exercise prices are in consecutive order. This strategy can also be considered a combination of one long butterfly spread and one short box spread, as defined in this rule.

(68) Short Iron Condor Spread

The term ''short iron condor spread'' means an aggregation of positions in two series of puts and two series of calls, structured as a long put with the lowest exercise price, a short put and a short call with the next two consecutively higher exercise prices, and a long call with the highest exercise price, all of which have the same contract size, underlying component or index and time of expiration, are based on the same aggregate current underlying value, where the interval between the exercise price of each series is equal, and the exercise prices are in consecutive order. This strategy can also be considered a combination of two long butterfly spreads and one short box spread, as defined in this rule.

(61) through (77) renumbered as (69) through (85).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The proposed rule change is consistent with recent margin rule amendments by the New York Stock Exchange (''NYSE'') and the Chicago Board Options Exchange (''CBOE''), which were recently approved by the Commission.[5] Specifically, NASD is proposing to amend Rule 2520 to (1) recognize specific additional complex option spread strategies for purposes of determining required margin and (2) amend the provisions relating to ''permitted offsets'' for certain listed option transactions. In addition, NASD is proposing to amend Rule 2522 to include definitions relating to the proposed rule change described above as well as certain other conforming definitional and language changes.

1. Complex Option Spread Strategies

NASD proposes to amend Rule 2520 and the corresponding definitions in Rule 2522 to recognize specific additional complex option spread strategies and set margin requirements commensurate with the risk of such spread strategies. These complex option spread strategies are the net result of combining two or more spread strategies that are currently recognized in NASD's margin rules. The netting of contracts in option series common to each of the currently recognized spreads in an aggregation reduces it to the complex spread strategies noted below.

Basic option spreads can be paired in such ways that they offset each other in terms of risk. The total risk of the combined spreads is less than the sum of the risk of both spread positions if viewed as stand-alone strategies. The specific complex option spread strategies listed below are structured using the same principles as, and are essentially expansions of, the advanced spreads currently allowed in Rule 2520 and as defined in Rule 2522.

Currently, Rule 2520 recognizes and prescribes margin requirements for advanced spread strategies known as the ''butterfly spread'' and the ''box spread.'' However, these option spreads are limited in scope. The proposed rule change seeks to expand on the types of pairings that would qualify for butterfly spread and box spread margin treatment. In addition, Rule 2520 recognizes a ''calendar spread,'' also known as a ''time spread,'' yet it is not identified as such. NASD proposes to define this term as ''the sale of one option and the simultaneous purchase of another option of the same type, both specifying the same underlying component with the same exercise price or different exercise prices, where the 'long' option expires after the 'short' option,'' in Rule 2522 since some of the complex spreads NASD seeks to recognize in the proposed rule change will include this component of spread strategies.

To be eligible for the margin requirements set forth below, a complex spread must be consistent with one of the seven patterns specified below. The expiration months and the sequence of the exercise prices must correspond to the same pattern, and the intervals between the exercise prices must be equal.

Members will be required to obtain initial and maintenance margin for the subject complex spreads, whether established outright or through netting, of not less than the sum of the margin required on each basic spread in the equivalent aggregation.

The basic requirements are as follows: (a) The complex option spreads must be carried in a margin account; and (b) European-style[6] options are prohibited for complex spread combinations having a long option series that expires after the other option series (*i.e.*, those that involve a time spread such as items 5, 6, and 7 below). Only American-style options[7] may be used in these combinations. Additionally, the intervals between exercise prices must be equal, and each complex spread must comprise four option series, with the exception of item 4 below, which must comprise three option series.

The sum of the margin required on each currently recognized spread in each of the applicable aggregations renders margin requirements for the subject complex spread strategies as stated below. The additional complex option spread strategies and maintenance margin requirements are as follows:

(1) A Long Condor Spread is comprised of two long Butterfly Spreads. The proposal requires initial and maintenance margin of full cash payment of the net debit incurred when this spread strategy is established. Full payment of the net debit incurred will cover any potential risk to the carrying broker-dealer.

(2) A Short Iron Butterfly Spread is comprised of one long Butterfly Spread and one short Box Spread. The establishment of a long Butterfly Spread results in a margin requirement equal to the net debit incurred. The establishment of a short Box Spread requires margin equal to the aggregate difference between the exercise prices. The net proceeds from the sale of short option components may be applied to the margin requirement. Accordingly, to cover the risk to the carrying broker-dealer, the proposal requires a deposit of the aggregate exercise price differential. The net credit received may be applied to the deposit required.

(3) A Short Iron Condor Spread is comprised of two long Butterfly Spreads and one short Box Spread. The establishment of long Butterfly Spreads results in a margin requirement equal to the net debit incurred. The establishment of a short Box Spread requires margin equal to the difference in the strike price. Accordingly, to cover the risk to the carrying broker-dealer,

[5] *See* Exchange Act Release No. 52951 (December 14, 2005), 70 FR 75523 (December 20, 2005) (SR–NYSE–2004–39); and Exchange Act Release No. 52950 (December 14, 2005), 70 FR 75512 (December 20, 2005) (SR–CBOE–2004–53).

[6] A European-style option is an option contract that can be exercised only on its expiration date.

[7] An American-style option is an option contract that can be exercised at any time between the date of purchase and its expiration date.

the proposal requires a deposit of the aggregate exercise price differential. The net credit received may be applied to the deposit required.

(4) A Long Calendar Butterfly Spread is comprised of one long Calendar Spread and one long Butterfly Spread. The proposal requires initial and maintenance margin of full cash payment of the net debit incurred when this spread strategy is established. Full payment of the net debit incurred will cover any potential risk to the carrying broker-dealer.

(5) A Long Calendar Condor Spread is comprised of one long Calendar Spread and two long Butterfly Spreads. The proposal requires initial and maintenance margin of full cash payment of the net debit incurred when this spread strategy is established. Full payment of the net debit incurred will cover any potential risk to the carrying broker-dealer.

(6) A Short Calendar Iron Butterfly Spread is comprised of one long Calendar Spread plus one long Butterfly Spread and one short Box Spread. To cover the risk to the carrying broker-dealer, the proposal requires a deposit of the aggregate exercise price differential. The net credit received may be applied to the deposit required.

(7) A Short Calendar Iron Condor Spread is comprised of one Long Calendar Spread plus two long Butterfly Spreads and one short Box Spread. To cover the risk to the carrying broker-dealer, the proposal requires a deposit of the aggregate exercise price differential. The net credit received may be applied to the deposit required.

As noted above, the purpose and benefit is to set levels of margin that more precisely represent actual net risk of the option positions in the account and enable customers to implement these strategies more efficiently.

2. Permitted Offsets

Rule 2520(f)(2)(J) addresses margin requirements for members that clear and carry the listed options transactions of registered specialists, registered market makers or registered traders in options, and recognizes certain offset positions in establishing the margin requirements. The rule currently limits permitted offsets for these parties to options series that are ''in or at the money,'' which is defined to mean ''the current market price of the underlying security is not more than two standard exercise intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option.''

Recently, various option exchanges have provided for the listing of options with one-dollar strike intervals in a number of classes. As a result, the use of securities to hedge options series that have one-dollar strike intervals has unintentionally become more restrictive. The proposed rule change will eliminate the definition of ''in or at the money,'' thereby eliminating the two standard exercise interval limitation for listed options. In addition, the proposed rule change will require permitted offset transactions to be effected for specialist or market-making purposes such as hedging, risk reduction, rebalancing of positions, liquidation, or accommodation of customer orders, or other similar specialist or market-making purposes.

Since clearing firms have risk monitoring systems that alert them to unhedged positions and haircut requirements pursuant to Rule 15c3–1 of the Act,[8] which perform a similar function as NASD margin requirements relative to providing adequate risk coverage to broker-dealers, elimination of the two-dollar standard exercise price limitation and definition of ''in or at the money'' will not diminish the ''safety and soundness'' protections that the margin rules provide.

This proposed rule change is effective upon filing. The effective date and the implementation date will be the date of filing.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[9] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will set margin requirements commensurate with the risk of the identified options spread strategies and will further promote consistent margin requirements among the self-regulatory organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) [10] of the Act and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such actions is consistent with the protection of investors and the public interest. NASD has requested that the Commission waive the 30-day operative delay and designate the proposed rule change to become operative on the date of filing with the Commission, in order to conform NASD's margin rules to the recent rule changes by the NYSE and CBOE [14] and to avoid subjecting firms to conflicting margin requirements. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[8] 17 CFR 240.15c3–1.

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78f(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6) requires that NASD give the Commission written notice of NASD's intention to file the proposed rule change along with a brief description and text of the proposed rule change at least five business days prior to the date of the filing of the proposed rule change. The Commission notes that NASD has satisfied the pre-filing five-day notice requirement.

[12] *Id.*

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] *See* supra note 5.

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–NASD–2006–045 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–045. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–045 and should be submitted on or before May 30, 2006.

[16] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Nancy M. Morris,

Secretary.

[FR Doc. E6–6911 Filed 5–5–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53742; File No. SR–NSCC–2006–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Trade Submission Requirements and Fees and Pre-Netting

April 28, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 15, 2006, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on March 22, 2006, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC is seeking to: (1) Require that all locked-in trade data submitted to NSCC for trade recording be submitted on a real-time basis; (2) prohibit pre-netting and other practices that prevent real-time trade submissions; and (3) establish a new fee model for equity trade recording and netting services.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Real-Time Trade Submission

NSCC processes approximately 25 million transaction sides per day with a gross value of nearly $500 billion.[3] These transactions are submitted primarily on a locked-in basis by self-regulatory organizations (''SROs'') (such as the New York Stock Exchange, American Stock Exchange, Nasdaq Stock Market Inc., and the regional exchanges) and Qualified Special Representatives (''QSRs''). Generally a QSR is a member that (i) operates an automated execution system where the member is always the contra side to every trade, (ii) has a parent corporation or an affiliated corporation that operates an automated execution system where the member is always the contra side to every trade, or (iii) clear for a broker-dealer that operates an automated execution system where the broker-dealer is always the contra side to every trade and the subscribers to the system enter into an agreement with the broker-dealer and the member that acknowledges the member's role in the clearance and settlement of trades executed on the system.[4]

The New York Stock Exchange, the American Stock Exchange, and The Nasdaq Stock Market Inc., currently submit trades executed on their respective markets to NSCC on a real-time basis. Archipelago Exchange is scheduled to begin submitting locked-in trades on a real-time basis before the end of 2006. Accordingly, before the end of 2006, more than 70% of the trades submitted to NSCC for trade recording will be submitted on a real-time basis. However, the remaining regional exchanges and most of the QSRs currently submit their trades either on a multi-batch or end-of-day basis. NSCC understands that some of these exchanges and QSRs are in the process of developing real-time trade submission capabilities.

The proposed rule change would modify NSCC's Procedure II (Trade Comparison and Recording Service) to require that all locked-in trades submitted for trade recording by SROs and QSRs be submitted on a real-time

[3] Data based upon second quarter, 2005, volumes.

[4] The remaining original trade data received by NSCC is submitted by members for trade comparison and consists of OTC equity trades and OTC fixed income trades submitted through the Fixed Income Clearing Corporation (''FICC'') Real-Time Trade Matching System. In 2005, an average of approximately 43,000 equity and fixed income sides per day were submitted to NSCC for trade comparison.

basis.[5] The term ''real-time'' when used with respect to trade data submission will be defined in Procedure XIII (Definitions) as the submission of trade data on a trade-by-trade basis promptly after trade execution in any format and by any communication method acceptable to NSCC.[6]

This requirement will reduce systemic risk for a number of reasons, including the following:

(1) Business Continuity. Requiring real-time submission of locked-in trade data reduces operational risk and promotes business continuity by promoting safe storage of transaction data at the clearing agency level. Without real-time submission, should an event occur after trade execution that disrupts trade input, submission of trade data could be significantly delayed or trade data could be lost.

(2) Straight through processing. Real-time trade submission promotes straight through processing and will support the movement by the securities industry to shortened settlement cycles.

(3) Risk Mitigation. Receipt of trade data on a real-time basis permits NSCC's Risk Management staff to begin analysis of trades earlier and thereby monitor members' market risks as they evolve during the trading day.

(4) Trade Reconciliation. Receipt of trade data on a real-time basis will enable NSCC to record and report to its members trade data earlier in the day thereby promoting intraday reconciliation of transactions at the member level.

2. Prohibition of Pre-Netting and Clarification of Correspondent Clearing Service

In order to effectively move to a real-time trade input environment, practices that prevent real-time submission would also be prohibited. Among such practices that NSCC has identified are the practice of ''pre-netting'' and the inappropriate use of its Correspondent Clearing Service. A review of QSR trade practices indicates that certain QSRs ''pre-net'' trades before they submit trade data to NSCC on a locked-in basis. Pre-netting is done on a bilateral basis between a QSR and its customer, both NSCC members. In addition, any pre-netting practices, whether being ''summarization'' (combining like-sided trades by executing/correspondent broker), ''compression'' (combining like-sided trades by clearing broker), netting, or any other practice that combines two or more trades prior to their submission to NSCC, prevent the submission to NSCC of transactions on a trade-by-trade basis and cause submitting firms to delay submission of their trades. Delayed submission of trade data creates business continuity risk for members and their users and settlement risk for NSCC should some event occur that subsequently disrupts trade input and prevents NSCC from monitoring market risks as they evolve during the trading day. For these reasons, NSCC is proposing to require real-time trade submission and to prohibit pre-netting activity by members submitting trade data on a locked-in basis.[7]

Accordingly, NSCC proposes to amend Rule 7 (Comparison and Trade Recording Operation) to make clear that locked-in trade data from SROs and QSRs must be submitted on a trade-by-trade basis in the original form in which the trades are executed and to make clear that pre-netting is prohibited.[8]

For these same reasons, NSCC is modifying its Procedure IV (Special Representative Service) to clarify its appropriate use. The Special Representative Service (the Correspondent Clearing Service of the Special Representative Service in particular) is designed to provide an automated vehicle by which a member, acting as a Special Representative, may ''move'' a trade that is in the process of being cleared and settled at NSCC to the account of another member (its correspondent) on whose behalf the trade was executed. For example, Member A sells securities for Member B (Member A's correspondent) on the NYSE. The transaction is submitted to NSCC by the NYSE. As a result, Member A has a CNS obligation to deliver the shares sold. Acting as Special Representative for Member B, its correspondent, Member A then submits new transaction data to NSCC showing itself as a buyer of the securities and Member B, its correspondent, as the seller. As a result, the Special Representative, Member A, nets out in the CNS System, and Member B, the correspondent, has a CNS obligation to deliver. In other words, the service provides a method whereby the correspondent's obligation can be substituted for that of the Special Representative.[9]

The Correspondent Clearing Service was not designed as a mechanism to permit a Special Representative, acting as a QSR or otherwise, to submit original locked-in trade data. Therefore, NSCC is not requiring that Special Representative/Correspondent Clearing input be submitted on a real-time, trade for trade basis. Furthermore, the rule change adds language to Procedure IV to make it clear that the Correspondent Clearing Service is limited to position movements only and may not be used to submit original locked-in trade data.

3. Technical Clarifications

At this time, as part of updating its Rules and Procedures relative to the Trade Recording and Special Representative Services, NSCC is proposing to also make certain technical corrections, clarifications, and organizational changes. These include the following:

(1) Moving the definitions of ''Special Representative,'' ''Qualified Special Representative,'' and ''Index Receipt Agent'' from Rule 39 to Rule 7 (where these terms are first used) and titling Rules 7 and 39 accordingly;

(2) amending Procedure II to (i) clarify the procedures NSCC uses to confirm locked-in trade data (as opposed to editing and comparing trades submitted for comparison directly by members) and (ii) add back language relating to receipt of locked-in trade data from QSRs that was erroneously deleted in File No. SR–NSCC–2003–12; [10] and

(3) amending the definition of ''Registered Clearing Agency'' in Rule 1 (Definitions) to include an entity that provides electronic trade confirmation or central matching services pursuant to an exemption from registration and to make corresponding changes to applicable cross-references.

4. New Fee Model

In conjunction with the implementation of the real-time trade submission requirement, NSCC plans to implement a new fee model to address certain economic factors that it believes have influenced firms' trade submission practices described above. The proposed new fee model is designed to respond to trading activity trends, to mitigate the anticipated impact of the proposed real-time submission requirement, and to

[5] NSCC is not at this time modifying Procedure III (Trade Recording Service (Interface Clearing Procedures)), so files submitted to NSCC by The Options Clearing Corporation relating to option exercises and assignments will not be required to be submitted on a real time basis. OCC's process of assigning option assignments is and will continue to be an end-of-day process.

[6] As part of the proposal, Addendum N (Interpretation of the Board of Directors: Locked-In Data From Qualified Special Representatives) would be deleted as it would no longer be relevant.

[7] The Commission has approved a proposed rule change filed by FICC that allowed FICC to adopt a similar requirement. Securities Exchange Act Release No. 51908 (June 22, 2005), 70 FR 37450 (June 29, 2005). See FICC GSD Rules 11 (Netting System), Section 3 (Obligation to Submit Trades) and 18 (Special Provisions For Repo Transactions), Section 3 (Collateral Substitution).

[8] Trades executed in the normal course of business between a clearing member and its correspondent or between correspondents of the clearing member, which correspondent(s) is not itself a member and settles such obligations through such clearing member (''internalized trades'') are not required to be submitted to NSCC and shall not be considered to violate the ''pre-netting'' prohibition.

[9] This is generally referred to as a ''position movement'' to distinguish it from an actual trade.

[10] Securities Exchange Act Release No. 48141 (July 8, 2003), 68 FR 42153 (July 16, 2003) [File No. SR–NSCC–2003–12].

realign fees with service benefits. The scope of the new fee model includes revised fees for equity Trade Recording, Correspondent Clearing, and Flip Trades, and a new fee structure for trade clearance (*i.e.*, Netting Fee).

The relevant portion of NSCC's proposed revised fee structure is set forth below. Language proposed to be added is italicized, and language proposed to be deleted is in brackets.

Addendum A—National Securities Clearing Corporation Fee Structure

I. Trade Comparison and Recording Service Fees

* * * * *

C. Trade recording fees will be charged as follows on those items originally compared by other parties, but cleared through the Corporation:[11]

1. Each side of each stock, warrant or right item entered for settlement, but not compared by the Corporation—[$.0015 per 100 shares, with a minimum fee of $.0045 and a maximum fee of $.09] *the sum of a) a fixed fee of $.0025, and b) a fee of $.0006 per 100 shares, with a minimum fee of $.0006 per 100 shares and a maximum fee of $0.60 per 100,000 shares* being applicable.

2. Each side of each bond item entered for settlement, but not compared by the Corporation—$1.00 per side.

3. Each side of a foreign security trade entered for settlement, but not compared by the Corporation—$.75 per side.

* * * * *

II. TRADE CLEARANCE FEES—represents fees for netting, issuance of instructions to receive or deliver, effecting book-entry deliveries, and related activity.

* * * * *

E. Trade *Netting* [Clearance (netting)]—*The sum of* $[.007] *.003* per side, *plus 1) a ''value into the net'' fee of $.19 per million dollars of processed value* (*i.e.* for CNS and Balance Order netting, the sum of the contract amount and any CNS fail value), and 2) a ''value out of the net'' fee of $.69 per million dollars of settling value (*i.e.* the absolute value of the CNS Long and Short Positions).

F. Designated valued deliveries[12] (transaction processing) entered into the clearance system through special representative procedures—$[.05] *.0125* per side.

G. Flip Trades—$[.005] *.0025* per side.

* * * * *

These proposed fee changes are the result of an extensive analysis of the business practices, rules, fee structure, and the associated revenue flows for NSCC's clearing services. The current clearing fee schedule has a legacy that fundamentally dates back more than two decades and is primarily based on a transaction count. The bias towards transaction counting has led to a disproportionate growth in revenues as transaction activity has grown. In addition, analysis of transaction input shows a clear trend over time to smaller trade sizes. This trend is a function of decimalization, increased algorithmic trading activities, and the proliferation of new trading platforms. As a result, approximately 70% of equity trades currently submitted to NSCC are for 300 shares or less.

While the proposed fee changes are designed to be revenue-neutral to NSCC, the mixture of these fees will change. Trade Recording, Correspondent Clearing, and Flip Trade fees will be reduced. The current trade clearance fee will be replaced with a new Netting Fee. The current trade clearance fee is a flat transaction fee that neither factors in the netting benefits of NSCC's CNS and Balance Order systems nor reflects the relative risk of members' netted obligations to NSCC. The new Netting Fee will reflect both the value of NSCC's netting and the relative risk presented thereby. Collectively, these fees are less volume sensitive and establish a fair and consistent pricing philosophy for all participants that encourages real-time capture of trade input.

The Trade Recording fee would be modified to: (1) Establish a two-element fee based on sides and shares; (2) institute a fixed charge per side; (3) decrease the share minimum per trade from 300 shares to 100 shares; (4) increase share maximum per trade from 6,000 shares to 100,000 shares; and (5) reduce overall fees for the Trade Recording service. The Netting Fee would be modified to establish a multi-element fee based on items and values, including: (1) A fixed fee per side; (2) an ''into-the-net'' fee based on items and gross value (*i.e.*, the sum of the contract amount and fail value) processed in the CNS and Balance Order nets; and (3) an ''out-of-the-net'' fee based on the absolute value of the CNS Long and Short Positions. Finally, the ''per item'' fee for Correspondent Clearing and Flip Trades would be reduced.

5. Implementation Timeframe

NSCC plans to implement all these proposed rule changes, other than the requirement to submit locked-in trade data on a real-time basis, on July 1, 2006, subject to Commission approval. Recognizing that requiring exchanges and QSRs to submit locked-in trade data on a real-time basis will require some of these organizations to make systems changes, NSCC proposes that the requirement to submit locked-in trade data on a real-time basis and corresponding changes (*i.e.*, adding the definition of ''Real-time'' to Procedure XIII and the deletion of Addendum N, which requires QSRs to submit locked-in trade data on trade date) would become effective on January 1, 2007, in order to provide time for those affected organizations to implement the necessary changes. The proposed rules will note these time frames accordingly.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[13] and the rules and regulations thereunder applicable to NSCC because it should promote the prompt and accurate clearance and settlement of securities transactions by requiring that all locked-in trade data submitted to NSCC for trade recording be submitted on a real-time basis and by prohibit pre-netting and other practices that prevent real-time trade submissions. In addition, the proposed rule change should provide for the equitable allocation of reasonable dues, fees, and other charges among NSCC's members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

NSCC has not solicited or received any written comments on this proposal. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

[11] Trade Recording Fees will be charged for all OCS and IDC input except for sides originally submitted correctly to the Corporation's comparison system.

[12] A designated value delivery is an instruction from a Special Representative to CNS to transfer a valued position from one participant to another participant or to a non-participant through a clearing interface.

[13] 15 U.S.C. 78q–1.

(ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NSCC–2006–04 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSCC–2006–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *www.nscc.com/legal.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2006–04 and should be submitted on or before May 30, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–6910 Filed 5–5–06; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 5330]

Bureau of Intelligence and Research; Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII)

The Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on Wednesday, May 17, 2006 beginning at 9:30 a.m. in Room 1205 of the U.S. Department of State, Harry S. Truman Building, 2201 C Street, NW., Washington, DC.

The Advisory Committee will recommend grant recipients for the FY 2006 competition of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union in connection with the ''Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, as amended.'' The agenda will include opening statements by the Chairman and members of the committee, and, within the committee, discussion, approval and recommendation that the Department of State negotiate grant agreements with certain ''national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the Independent States of the Former Soviet Union,'' based on the guidelines contained in the call for applications published in the **Federal Register** on November 14, 2005. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program in general.

This meeting will be open to the public; however attendance will be limited to the seating available. Entry into the Harry S. Truman building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify the Title VIII Program Office at the U.S. Department of State on (202) 647–0243 by Friday, May 12, 2006, providing the following information: Full Name, Date of Birth, Social Security Number, Country of Citizenship, and any requirements for special needs. All attendees must use the 2201 C Street entrance and must arrive no later than 9:15 a.m. to pass through security before entering the building. Visitors who arrive without prior notification and without photo identification will not be admitted.

Dated: April 14, 2006.

Susan H. Nelson,

Acting Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, Department of State.

[FR Doc. E6–7026 Filed 5–5–06; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

[Public Notice 5389]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a meeting on May 15, 2006, in the U.S. Embassy Conference Room, at the U.S. Embassy in Bogota, Colombia, Calle 22D–BIS, No. 47–51. The meeting will be from 10:30 a.m to 11:15 a.m. The Commissioners will discuss public diplomacy issues and hear from experts on U.S.-Colombian relations.

The Commission was reauthorized pursuant to Public Law 109–108. (H.R. 2862, Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006). The U.S. Advisory Commission on Public Diplomacy is a bipartisan Presidentially appointed panel created by Congress in 1948 to provide oversight of U.S. Government activities intended to understand, inform and influence foreign publics. The Commission reports its findings and recommendations to the President, the Congress and the Secretary of State and the American people. Current Commission members include Barbara M. Barrett of Arizona, who is the Chairman; Harold Pachios of Maine; Ambassador Penne Percy Korth of Washington, DC; Ambassador Elizabeth Bagley of Washington, DC; Charles ''Tre'' Evers of Florida; Jay T. Snyder of New York; and Maria Sophia Aguirre of Washington, DC.

Seating is limited. To attend the meeting and for more information, please contact Carl Chan at (202) 203–7880, or (202) 203–7883.

[14] 17 CFR 200.30–3(a)(12).

Dated: April 27, 2006.

Carl Chan,

Interim Executive Director, ACPD, Department of State.

[FR Doc. E6–7025 Filed 5–5–06; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–12]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 30, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2006–24500] by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Lender (202) 267–8029 or John Linsenmeyer (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on May 2, 2006.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

[Docket No.: FAA–2006–24501]

Petitioner: Heliarc Welding Service, Inc.

Section of 14 CFR Affected: 14 CFR 145.163.

Description of Relief Sought: The exemption, if granted, would permit Heliarc Welding Service, Inc. to use its continual training program that follows American National Standard, AWS D17.1–2001 9 in place of the recurrent training requirement in § 145.163(a).

[FR Doc. E6–6916 Filed 5–5–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety, Notice of Delays in Processing of Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Application Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer Billings, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of application Number Suffixes

N—New application.

M—Modification request.

PM—Party to application with modification request.

Issued in Washington, DC, on May 2, 2006.

R. Ryan Posten,

Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.

Application number	Applicant	Reason for delay	Estimated date of completion
	Modification to Exemptions		
7280–M	Department of Defense, Ft. Eustis, VA	4	05–31–2006
11241–M	Rohm and Haas Co., Philadelphia, PA	1	05–31–2006
11924–M	Wrangler Corporation, Auburn, ME	4	05–31–2006
13583–M	Structural Composites Industries, Pomona, CA	3, 4	06–30–2006
11903–M	Comptank Corporation, Bothwell, ON	4	06–30–2006
13182–M	Cytec Industries Inc., West Paterson, NJ	3, 4	06–30–2006

Application number	Applicant	Reason for delay	Estimated date of completion
	New Exemption Applications		
13341–N	National Propane Gas Association, Washington, DC	3	05–31–2006
13582–N	Linde Gas LLC (Linde), Independence, OH	4	05–31–2006
14038–N	Dow Chemical Company, Midland, MI	1	05–31–2006
14184–N	Global Refrigerants, Inc., Denver, CO	4	06–30–2006
14221–N	U.S. Department of Energy, Washington, DC	4	05–31–2006
14266–N	NCF Industries, Inc., Santa Maria, CA	3	08–31–2006
14270–N	Piper Metal Forming Corporation, New Albany, MS	3, 4	08–31–2006
14257–N	Origin Energy American Samoa, Inc., Pago Pago, AS	4	06–30–2006
14237–N	Advanced Technology Materials, Inc. (ATMI), Danbury, CT	1	05–31–2006
14239–N	Marlin Gas Transport, Inc., Odessa, FL	1	05–31–2006
14233–N	U.S. Department of Energy (DOE), Richland, WA	4	05–31–2006
14232–N	Luxfer Gas Cylinders—Composite Cylinder Division, Riverside, CA	4	06–30–2006
14229–N	Senex Explosives, Inc., Cuddy, PA	4	06–30–2006
14228–N	Goodrich Corporation, Colorado Springs, CO	1	05–31–2006
14278–N	Air Transport International, L.L.C., Little Rock, AR	3	06–30–2006
14277–N	Ascus Technologies, Ltd., Cleveland, OH	3, 4	08–31–2006
14267–N	Department of Energy, Washington, DC	1	06–30–2006
14209–N	ABB Power Technologies AB, Alamo, TN	4	05–31–2006
14197–N	GATX Rail Corporation, Chicago, IL	4	05–31–2006
14163–N	Air Liquide America L.P., Houston, TX	4	06–30–2006
14138–N	INO Therapeutics, Inc., Port Allen, LA	4	06–30–2006
13999–N	Kompozit-Praha s.r.o., Dysina u Plzne, Czech Republic, CZ	1	05–31–2006
13563–N	Applied Companies, Valencia, CA	4	05–31–2006
13347–N	Amvac Chemical Corporation, Los Angeles, CA	4	06–30–2006

[FR Doc. 06–4267 Filed 5–5–06; 8:45am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Effect of the Federal Deposit Insurance Reform Act on the Consolidated Reports of Condition and Income

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication of this notice announcing the effect of the Federal Deposit Insurance Reform Act on the reporting of certain deposit-related data in the Consolidated Reports of Condition and Income (Call Report; FFIEC 031 and 041). Because the deposit insurance coverage for certain retirement plan deposits has increased from $100,000 to $250,000 while the insurance limit for deposit accounts in other ownership capacities has remained at $100,000, data will begin to be reported separately for the number and amount of retirement deposit accounts with balances within and in excess of the new $250,000 insurance limit. The instructions for reporting estimated uninsured deposits by banks with $1 billion or more in total assets and for reporting brokered deposits will be revised to reflect the new insurance limit for retirement deposit accounts. In addition, with the merger of the insurance funds administered by the FDIC, items in which banks with ''Oakar deposits'' have reported information on purchases and sales of deposits are no longer needed and will be eliminated. These reporting changes will take effect in the Call Report for June 30, 2006. In a separate action, the agencies have decided not to implement two new credit-derivative-related items that were to be added to the Call Report on September 30, 2006.

DATES: Comments must be submitted on or before May 22, 2006.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the Office of Management and Budget (OMB) control number(s), will be shared among the agencies.

OCC: You may submit comments, identified by [Attention: 1557–0081], by any of the following methods:

- E-mail: *regs.comments@occ.treas.gov*. Include [Attention: 1557–0081] in the subject line of the message.
- Fax: (202) 874–4448.
- Mail: Public Information Room, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1–5, Washington, DC 20219; Attention: 1557–0081.

Public Inspection: You may inspect and photocopy comments at the Public Information Room. You can make an appointment to inspect the comments by calling (202) 874–5043.

Board: You may submit comments, which should refer to ''Consolidated Reports of Condition and Income, 7100–0036,'' by any of the following methods:

- Agency Web Site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- FAX: 202–452–3819 or 202–452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted,

unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''Consolidated Reports of Condition and Income, 3064–0052,'' by any of the following methods:

- Agency Web site: *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- E-mail: *comments@FDIC.gov.* Include ''Consolidated Reports of Condition and Income, 3064–0052'' in the subject line of the message.
- Mail: Steven F. Hanft (202–898–3907), Paperwork Clearance Officer, Room MB–3064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/notices.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3502 North Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters should send a copy of their comments to the OMB desk officer for the Agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT:

OCC: Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Michelle E. Long, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Steven F. Hanft, (202) 898–3907, Room MB–3064, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Banks file Call Report data with the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of reporting banks and the industry as a whole. In addition, Call Report data provide the most current statistical data available for evaluating bank corporate applications such as mergers, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. Call Report data are also used to calculate all banks' deposit insurance and Financing Corporation assessments and national banks' semiannual assessment fees.

II. Current Actions

A. Changes Due to Deposit Insurance Reform

The Federal Deposit Insurance Reform Act of 2005 (Reform Act) (Pub. L. 109–171), enacted in February 2006, increased the deposit insurance limit for certain retirement plan deposit accounts from $100,000 to $250,000. The basic insurance limit for other depositors—individuals, joint accountholders, businesses, government entities, and trusts—remains at $100,000. The FDIC issued an interim rule to implement this increase in coverage and other provisions of the Reform Act pertaining to deposit insurance coverage effective April 1, 2006 (71 FR 14629).

''Retirement deposit accounts'' that are eligible for $250,000 in deposit insurance coverage are deposits made in connection with the following types of retirement plans: Individual Retirement Accounts (IRAs), including traditional and Roth IRAs; Simplified Employee Pension (SEP) plans; ''Section 457'' deferred compensation plans; self-directed Keogh (HR 10) plans; and self-directed defined contribution plans, which are primarily 401(k) plan accounts. The term ''self-directed'' means that the plan participants have the right to direct how their funds are invested, including the ability to direct that the funds be deposited at an FDIC-insured institution. Retirement deposit accounts exclude Coverdell Education Savings Accounts, formerly known as Education IRAs.

At present, all banks report the number and amount of deposit accounts of (a) $100,000 or less and (b) more than $100,000 in Call Report Schedule RC–O, Memorandum items 1.a.(1) through 1.b.(2). This information provides the basis for calculating ''simple estimates'' of the amount of insured and uninsured deposits and is the only information reported by individual banks with less than $1 billion in total assets pertaining to their estimated uninsured deposits. In 2003, the Office of Management and Budget (OMB) approved a revision to the Call Report information collection pursuant to the Paperwork Reduction Act that provided that ''for the Memorandum items on the number and amount of deposit accounts by size of account in the insurance assessments schedule (Schedule RC–O), the dollar amount for the size of an account represents the deposit insurance limit in effect on the report date.''[1] This action was taken to ensure that the reporting on the number and amount of deposits accounts in Schedule RC–O, Memorandum item 1, could be changed automatically as a function of the deposit insurance limits in effect on any particular quarter-end Call Report date.

Therefore, in response to the change in the deposit insurance coverage for ''retirement deposit accounts,'' which creates a different level of coverage than for all other deposit accounts, the agencies are adding new Memorandum items 1.c.(1) through 1.d.(2) to Call Report Schedule RC–O effective June 30, 2006. As revised, Memorandum item 1 (including its subitems) would be as follows:

1. Total deposits (in domestic offices) of the bank (and in insured branches in Puerto Rico and U.S. territories and possession):[2]

a. Deposit accounts (excluding retirement accounts) of $100,000 or less:

(1) Amount of deposit accounts (excluding retirement accounts) of $100,000 or less

(2) Number of deposit accounts (excluding retirement accounts) of $100,000 or less (to be completed for the June report only)

b. Deposit accounts (excluding retirement accounts) of more than $100,000:

(1) Amount of deposit accounts (excluding retirement accounts) of more than $100,000

(2) Number of deposit accounts (excluding retirement accounts) of more than $100,000

[1] 68 FR 10311, March 4, 2003. Also see 67 FR 68230, November 8, 2002.

[2] On the FFIEC 031 report form, the sum of Schedule RC–O, Memorandum items 1.a.(1), 1.b.(1), 1.c.(1), and 1.d.(1) must equal the sum of Schedule RC, item 13.a, and Schedule RC–O, items 5.a and 5.b. On the FFIEC 041 report form, the sum of Schedule RC–O, Memorandum items 1.a.(1), 1.b.(1), 1.c.(1), and 1.d.(1) must equal Schedule RC, item 13.a.

c. Retirement deposit accounts of $250,000 or less:
(1) Amount of retirement deposit accounts of $250,000 or less
(2) Number of retirement deposit accounts of $250,000 or less (to be completed for the June report only)

d. Retirement deposit accounts of more than $250,000:
(1) Amount of retirement deposit accounts of more than $250,000
(2) Number of retirement deposit accounts of more than $250,000

In addition, banks with $1 billion or more in total assets report the estimated amount of their uninsured deposits in Schedule RC–O, Memorandum item 2.[3] Through March 31, 2006, the reporting of this estimate has been based on the $100,000 limit of deposit insurance coverage that applied to deposits in all ownership capacities. With the increase in the deposit insurance coverage on ''retirement deposit accounts'' on April 1, 2006, the instructions for Memorandum item 2 are being revised effective June 30, 2006, to state that a bank's estimate of its uninsured deposits should reflect the deposit insurance limits in effect for ''retirement deposit accounts'' and other deposit accounts on the report date, which are $250,000 and $100,000, respectively.

Banks also report data on fully insured brokered deposits in Call Report Schedule RC–E, Memorandum items 1.c.(1), ''Issued in denominations of less than $100,000,'' and 1.c.(2), ''Issued either in denominations of $100,000 or in denominations greater than $100,000 and participated out by the broker in shares of $100,000 or less.'' With the change in the insurance coverage for ''retirement deposit accounts,'' the instructions for these items are being updated effective June 30, 2006. As revised, the instructions state that, for brokered deposits that represent retirement deposit accounts eligible for $250,000 in deposit insurance coverage, banks should report such brokered deposits in Schedule RC–E, Memorandum item 1.c.(1), only if they have been issued by the bank in denominations of less than $100,000. Banks should report such brokered deposits in Schedule RC–E, Memorandum item 1.c.(2), if they have been issued by the bank (a) in denominations of exactly $100,000 through exactly $250,000 or (b) in denominations greater than $100,000 that have been participated out by the broker in shares of $250,000 or less.

[3] Each year, the $1 billion asset size test is generally based on the total assets reported on the bank's balance sheet in the previous year's June 30 Call Report.

The Reform Act also provided for the merger of the two deposit insurance funds administered by the FDIC (the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF)), a merger that the FDIC effected on March 31, 2006. As a result, banks with ''Oakar deposits,'' *e.g.*, deposits insured by the SAIF in an institution that is a member of the BIF, no longer need to report information on purchases and sales of deposits during the quarter in Call Report Schedule RC–O, items 8.a.(1), 8.a.(2), and 8.b. These items are being deleted from the Call Report.

The preceding reporting changes will take effect in the Call Report for June 30, 2006. For this June 30 report date only, banks may provide reasonable estimates for any new or revised item for which the requested information is not readily available.

After banks make any necessary changes to their systems and records, the agencies estimate that these deposit-related reporting changes will produce an average net increase of 0.5 hours per bank per year in the ongoing reporting burden of the Call Report.

The agencies will monitor the impact of the new deposit insurance limits on bank practices and may propose additional revisions to the Call Report in the future to address supervisory or other public policy concerns resulting from any changes in bank practices.

B. Changes to Proposed Items on Credit Derivatives

In March 2006, OMB approved the agencies' request to add new items 7.c.(1) and (2) to Call Report Schedule RC–L to collect information on the maximum amounts that the reporting bank can collect or must pay on the credit derivatives into which it has entered. These items were to be added to the Call Report effective September 30, 2006.[4] Upon further consideration after consulting with banks active in the credit derivatives market, the agencies have decided not to implement these two new items.

Dated: April 28, 2006.

Stuart E. Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, April 28, 2006.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 1st day of May, 2006.

[4] See 71 FR 8654.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 06–4208 Filed 5–5–06; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–40

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–40, Credit for Production From Advanced Nuclear Facilities.

DATES: Written comments should be received on or before July 7, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Credit for Production From Advanced Nuclear Facilities.

OMB Number: 1545–2000.

Form Number: Notice 2006–40.

Abstract: This notice provides the time and manner for a taxpayer to apply for an allocation of the national megawatt capacity limitation under section 45J of the Internal Revenue Code. This information will be used to determine the portion of the national megawatt capacity limitation to which a taxpayer is entitled. The likely respondents are corporations and partnerships.

Current Actions: There is no change in the paperwork burden previously approved by OMB. However, the Title

and Notice number has changed from originally approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 15.

Estimated Time Per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 1, 2006

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–6889 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14411

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments; Correction

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 14411, Systemic Advocacy Issue Submission Form.

DATES: Written comments should be received on or before July 7, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Systemic Advocacy Issue Submission Form.

OMB Number: 1545–1832.

Form Number: 14411.

Abstract: Systemic Advocacy Issue Submission Form, is an optional use form for taxpayers (individual and business), tax professionals, trade and business associations, etc., to submit systemic problems. These problems may pertain to experiences with the Internal Revenue Service's processes procedures or make legislative recommendations.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, Federal, State, Local or Tribal governments.

Estimated Number of Respondents: 420.

Estimated Number of Response: 48 minutes.

Estimated Total Annual Burden Hours: 336.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 1, 2006.

Allan Hopkins,

IRS Reports Clearance Office.

[FR Doc. E6–6891 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council (IRSAC); Nominations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Request for nominations.

SUMMARY: The Internal Revenue Service (IRS) requests nominations of individuals to be considered for selection as Internal Revenue Service Advisory Council (IRSAC) members. Interested parties may nominate themselves and/or at least one other qualified person for membership. Nominations will be accepted for current vacancies and should describe and document the applicants qualifications for membership. IRSAC is comprised of twenty (20) members; approximately half of these appointments will expire in November 2006. It is important that the IRSAC continue to represent a diverse taxpayer and stakeholder base. Accordingly, to maintain membership diversity,

selection is based on the applicant's qualifications as well as the segment or group that he/she represents.

The Internal Revenue Service Advisory Council (IRSAC) provides an organized public forum for IRS officials and representatives of the public to discuss relevant tax administration issues. The council advises the IRS on issues that have a substantive effect on federal tax administration. As an advisory body designed to focus on broad policy matters, the IRSAC reviews existing tax policy and/or recommends policies with respect to emerging tax administration issues. The IRSAC suggests operational improvements, offers constructive observations regarding current or proposed IRS policies, programs, and procedures, and advises the IRS with respect to issues having substantive effect on federal tax administration.

DATES: Written nominations must be received on or before July 31, 2006.

ADDRESSES: Nominations should be sent to Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL:P, Room 7559 IR, 1111 Constitution Avenue, NW., Washington, DC 20224, Attn: IRSAC Nominations; or by e-mail: *public_liaison@irs.gov.* Applications may be submitted by mail to the address above or faxed to 202–927–5253. However, if submitted via a facsimile, the original application must be received by mail, as National Public Liaison cannot consider an applicant nor process his/her application prior to receipt of an original signature. Application packages are available on the Tax Professional's Page, which is located on the IRS Internet Web site at *http://www.irs.gov/taxpros/index.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Tilghman, 202–622–6440 (not a toll-free number).

SUPPLEMENTARY INFORMATION: IRSAC was authorized under the Federal Advisory Committee Act, Public Law 92–463., the first Advisory Group to the Commissioner of Internal Revenue—or the Commissioner's Advisory Group (''CAG'')—was established in 1953 as a ''national policy and/or issue advisory committee.''

Renamed in 1998, the Internal Revenue Service Advisory Council (IRSAC) reflects the agency-wide scope of its focus as an advisory body to the entire agency. The IRSAC's primary purpose is to provide an organized public forum for senior IRS executives and representatives of the public to discuss relevant tax administration issues.

Conveying the public's perception of IRS activities, the IRSAC is comprised of individuals who bring substantial, disparate experience and diverse backgrounds on the Council's activities. Membership is balanced to include representation from the taxpaying public, the tax professional community, small and large businesses, state tax administration, and the payroll community.

IRSAC members are appointed by the Commissioner of the Internal Revenue Service and serve a term of three years. IRSAC working groups mirror the reorganized IRS and address policies and administration issues specific to three Operating Divisions (Small Business/Self Employed; Large Mid-Size Business; and Wage & Investment). Members are not paid for their services. However, travel expenses for working sessions, public meetings and orientation sessions, such as airfare, per diem, and transportation to and from airports, train stations, etc., are reimbursed within prescribed federal travel limitations.

Receipt of nominations will be acknowledged, nominated individuals contacted, and immediately thereafter, biographical information must be completed and returned to Ms. Jacqueline Tilghman in National Public Liaison within fifteen (15) days of receipt. In accordance with Department of Treasury Directive 21–03, a clearance process including, fingerprints, annual tax checks, a Federal Bureau of Investigation criminal and subversive name check, and a practitioner check with the Office of Professional Responsibility will be conducted.

Equal opportunity practices will be followed for all appointments to the IRSAC in accordance with the Department of Treasury and IRS policies. To ensure that the recommendations of the IRSAC have taken into account the needs of the diverse groups served by the IRS, membership shall include individuals who demonstrate the ability to represent minorities, women, and persons with disabilities.

Dated: April 25, 2006.

Chris Neighbor,

Designated Federal Official, National Public Liaison.

[FR Doc. E6–6890 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2007 Grant Application Package

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document contains a notice that the IRS has made available the grant application package and guidelines (Publication 3319) for organizations interested in applying for a Low Income Taxpayer Clinic (LITC) matching grant for the 2007 grant cycle (January 1, 2007, through December 31, 2007). The IRS will award a total of up to $6,000,000 (unless otherwise provided by specific Congressional appropriation) to qualifying organizations, subject to the limitations of Internal Revenue Code section 7526, for LITC matching grants.

DATES: Grant applications for the 2007 grant cycle must be received by the IRS no later than 4 p.m. EDT on July 7, 2006.

ADDRESSES: Send completed grant applications to: Internal Revenue Service, Taxpayer Advocate Service, LITC Program Office, TA:LITC, Attention: LITC Applications, 1111 Constitution Ave. NW., Room 1034, Washington, DC 20224. Copies of the *2007 Grant Application Package and Guidelines*, IRS Publication 3319 (Rev. 5–2006), can be downloaded from the IRS Internet site at *http://www.irs.gov/advocate* or ordered from the IRS Distribution Center by calling 1–800–829–3676. Applicants can also file electronically at *http://www.grants.gov*. For applicants applying through the Federal Grants Web site, the Funding Number is TREAS–GRANTS–052007–001.

FOR FURTHER INFORMATION CONTACT: The LITC Program Office at 202–622–7186 (not a toll-free number) or by e-mail at *LITCProgramOffice@irs.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 7526 of the Internal Revenue Code authorizes the IRS, subject to the availability of appropriated funds, to award organizations matching grants of up to $100,000 per year for the development, expansion, or continuation of qualified low income taxpayer clinics. Section 7526 authorizes the IRS to provide grants to qualified organizations that represent low income taxpayers in controversies

with the IRS or inform individuals for whom English is a second language of their tax rights and responsibilities. The IRS may award grants to qualifying organizations to fund one-year, two-year or three-year project periods. Grant funds may be awarded for start-up expenditures incurred by new clinics during the grant period. The costs of preparing and submitting an application are the responsibility of each applicant. Each application will be given due consideration and the LITC Program Office will mail notification letters to each applicant no later than November 30, 2006.

Selection Considerations

Applications that pass the eligibility screening process will be numerically ranked based on the information contained in each proposed program plan. Please note that the IRS Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs are independently funded and separate from the LITC Program. Organizations currently participating in the VITA or TCE Programs may also be eligible to apply for a LITC grant if they meet the criteria and qualifications outlined in the *2007 Grant Application Package and Guidelines*. Organizations that seek to operate VITA and LITC Programs, or TCE and LITC Programs, must maintain separate and distinct programs even if co-located to ensure proper cost allocation for LITC grant funds and adherence to the rules and regulations of the VITA, TCE, and LITC Programs, as appropriate. In addition to the criteria and qualifications outlined in the *2007 Grant Application Package and Guidelines*, to foster parity regarding clinic availability and accessibility for taxpayers nationwide, the IRS will consider the geographic areas served by applicants as part of the decision-making process. The IRS will also seek to attain a proper balance of academic and nonprofit organizations, as well as a proper balance of start-up and existing clinics.

Comments

Interested parties are encouraged to provide comments on the IRS's administration of the grant program on an ongoing basis. Comments may be sent to: Internal Revenue Service, Taxpayer Advocate Service, Attn: W.R. Swartz, LITC Program Office, 290 Broadway, 14th Floor, New York, NY 10007.

Nina E. Olson,

National Taxpayer Advocate, Internal Revenue Service.

[FR Doc. E6–6939 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service; Tax Exempt and Government Entities Division (TE/GE); Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Wednesday, June 7, 2006.

FOR FURTHER INFORMATION CONTACT: Steven J. Pyrek, Director, TE/GE Communications and Liaison; 1111 Constitution Ave., NW., SE:T:CL—Penn Bldg.; Washington, DC 20224. Telephone: 202–283–9966 (not a toll-free number). E-mail address: *Steve.J.Pyrek@irs.gov.*

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Wednesday, June 7, 2006, from 9 a.m. to 12 p.m., at the Internal Revenue Service; 1111 Constitution Ave., NW., Room 3313; Washington, DC. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities.

Reports from four ACT subgroups cover the following topics:

- Document Compliance Program for 403(b) Arrangements
- Public Employers' Toolkit for Preparing Payrolls
- Policies and Guidelines for Form 990 Revision
- Effects of IRS Audit Information on the Tax-Exempt Bond Market

Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, attendees must call Cynthia PhillipsGrady to confirm their attendance.

Ms. PhillipsGrady can be reached at (202) 283–9954. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Picture identification must be presented. Please use the main entrance at 1111 Constitution Ave., NW., to enter the building.

Should you wish the ACT to consider a written statement, please call (202) 283–9966, or write to: Internal Revenue Service; 1111 Constitution Ave., NW., SE:T:CL—Penn Bldg.; Washington, DC 20224, or e-mail *Steve.J.Pyrek@irs.gov.*

Dated: May 2, 2006.

Steven J. Pyrek,

Designated Federal Official, Tax Exempt and Government Entities Division.

[FR Doc. E6–6893 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 6, 2006, at 3 p.m. eastern time.

FOR FURTHER INFORMATION CONTACT: Sandy McQuin at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, June 6, 2006, at 3 p.m. eastern time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org*. Public comments will also be welcome during the meeting. Please contact Sandy McQuin at 1–888–912–1227 or at (414) 231–2360 for additional information.

The agenda will include the following: Various IRS issues.

Dated: May 2, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–6886 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 25, 2006.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Thursday, May 25, 2006 from 10 a.m. Pacific time to 11:30 a.m. Pacific time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: May 1, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–6887 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 7, 2006, at 1 p.m., eastern time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, June 7, 2006, at 1 p.m. eastern time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or (414) 231–2364, or write Barbara Toy, TAP Office, MS–1006–MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to (414) 231–2363, or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy. Ms. Toy can be reached at 1–888–912–1227, or (414) 231–2364, or by FAX at (414) 231–2363.

The agenda will include the following: Monthly committee summary report, discussion of issues brought to the joint committee, office report, and discussion of next meeting.

Dated: May 2, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–6892 Filed 5–5–06; 8:45 am]

BILLING CODE 4830–01–P

Reader Aids

Federal Register

Vol. 71, No. 88

Monday, May 8, 2006

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, MAY

25483–25738 1
25739–25918 2
25919–26188 3
26189–26408 4
26409–26674 5
26675–26816 8

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations

No. 2006-12 of April 13, 2006 26409

Proclamations:

8007 25735
8008 25917
8009 26183
8010 26185
8011 26187
8012 26675

Executive Orders:

12820 (Revoked by EO 13401) 25737
13067 (See EO 13400) 25483
13400 25483
13401 25737

6 CFR

Proposed Rules:

5 26706

7 CFR

56 26189
271 26677
305 25487
319 ..... 25487, 26677
1001 25495
1005 25495
1006 25495
1007 25495
1030 25495
1032 25495
1033 25495
1124 25495
1126 25475
1131 25495
1924 25739

9 CFR

417 26677

10 CFR

72 25740

Proposed Rules:

50 26267
53 26267
72 25782
430 26275

12 CFR

611 25919
612 25919
614 25919
615 25919
620 25919
1412 25743

14 CFR

25 26189
39 ..... 25744, 25919, 25921, 25924, 25926, 25928, 25930, 26191, 26679, 26682, 26685
73 26194
97 ..... 25932, 26196

Proposed Rules:

39 ..... 25510, 25783, 25785, 25787, 25789, 25793, 25984, 25987, 26282, 26423, 26707
71 26284
204 26425
399 26425

15 CFR

774 25746

16 CFR

Proposed Rules:

310 25512

18 CFR

35 26199
37 26199
38 26199

20 CFR

404 26411

21 CFR

210 25747

22 CFR

1100 25934

23 CFR

625 26412

Proposed Rules:

655 26711
657 25516
658 25516

26 CFR

1 ..... 25747, 26687, 26688

Proposed Rules:

1 ..... 26721, 26722

27 CFR

4 25748
19 25752
40 25752

Proposed Rules:

9 25795

30 CFR

Proposed Rules:

917 25989
942 25992

31 CFR

103 26213

32 CFR

275 26220

33 CFR

100 .....26225, 26227, 26229
117.....26414
165 .....26230, 26416, 26419
207.....25502

Proposed Rules:

100 .....25523, 25526, 26285, 26287
117.....26290
151.....25798
165.....26292, 26294

36 CFR

7.....26232

Proposed Rules:

Ch. I.....25528
242.....25528

40 CFR

Ch. I.....25504
52.....26688
63.....25753
80 .....25706, 26419, 26691
180 .....25935, 25942, 25946, 25952, 25956, 25962

Proposed Rules:

50.....26296
51.....26296
52 .....25800, 26297, 26299, 26722
63.....25531, 25802
80.....25727
81.....26299
180 .....25993, 26000, 26001

41 CFR

102-37.....26420
102-39.....26420

42 CFR

Proposed Rules:

411.....25654
414.....25654
424.....25654

44 CFR

64.....26421

47 CFR

1.....26245
64.....25967
73.....25980, 25981
97.....25981

Proposed Rules:

15.....26004
73.....26006, 26310

48 CFR

52.....25507
Ch. 30.....25759

Proposed Rules:

970.....26723

49 CFR

Proposed Rules:

27.....25544
37.....25544
38.....25544
541.....25803

50 CFR

229.....26702
648.....25781, 26704
660.....26254
679.....25508, 25781

Proposed Rules:

13.....25894
17 .....26007, 26311, 26315, 26444
23.....25894
100.....25528
216.....25544
648.....26726
660.....25558
679.....26728
680.....25808, 26728

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 8, 2006

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans:

Preparation, adoption, and submittal—

8-hour ozone national ambient air quality standard; Vehicle Inspection Maintenance Program requirements; published 4-7-06

Air quality implementation plans; approval and promulgation; various States:

Alabama; published 3-9-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

New Jersey; published 4-6-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 4-3-06

Pratt & Whitney Canada; published 4-21-06

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Head restraints for passenger cars and light multipurpose vehicles, trucks, and buses; published 3-9-06

TREASURY DEPARTMENT

Foreign Assets Control Office

Foreign assets control regulations:

North Korean vessels; U.S. persons ownership prohibition; published 4-6-06

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Intercompany transactions; manufacturer incentive payments; published 5-8-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant pests and animal diseases:

Garbage from Hawaii; interstate movement of municipal solid waste; comments due by 5-19-06; published 4-19-06 [FR 06-03738]

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:

Commodities procurement for foreign donation; Open for comments until further notice; published 12-16-05 [FR E5-07460]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Organization, functions, and authority delegations:

Telecommunications Act Accessibility Guidelines and Electronic and Information Technology Accessibility Standards Advisory Committee; establishment; comments due by 5-18-06; published 4-18-06 [FR E6-05761]

COMMERCE DEPARTMENT

Industry and Security Bureau

National security industrial base regulations:

Defense priorities and allocation system; metalworking machines set-aside; comments due by 5-17-06; published 4-17-06 [FR E6-05649]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands king and tanner crabs; comments due by 5-17-06; published 5-2-06 [FR E6-06614]

Northeastern United States fisheries—

Northeast multispecies; comments due by 5-15-06; published 4-13-06 [FR 06-03504]

West Coast States and Western Pacific fisheries—

West Coast salmon; comments due by 5-19-06; published 5-4-06 [FR 06-04179]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

Louisiana; comments due by 5-17-06; published 4-17-06 [FR 06-03636]

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 5-15-06; published 4-14-06 [FR 06-03593]

Tennessee; comments due by 5-15-06; published 4-13-06 [FR 06-03489]

Hazardous waste program authorizations:

Oregon; comments due by 5-15-06; published 4-14-06 [FR E6-05328]

Washington; comments due by 5-15-06; published 4-14-06 [FR 06-03546]

Pesticide programs:

Plant incorporated protectorants; procedures and requirements—

Bacillus thuringiensis modified Cry3A protein; extension of temporary exemption; comments due by 5-15-06; published 3-15-06 [FR 06-02431]

FARM CREDIT ADMINISTRATION

Farm credit system:

Federal Mortgage Corporation, disclosure and reporting requirements; risk-based capital requirements; revision; comments due by 5-17-06; published 4-26-06 [FR E6-06294]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Numbering resource optimization; comments due by 5-15-06; published 3-15-06 [FR 06-02330]

Radio frequency devices:

Unlicensed devices operating in 5 GHz band; comments due by 5-15-06; published 5-3-06 [FR E6-06742]

FEDERAL TRADE COMMISSION

Appliances, consumer; energy consumption and water use information in labeling and advertising:

Energy efficiency labeling; public workshop; comments due by 5-17-06; published 4-10-06 [FR 06-03452]

GENERAL SERVICES ADMINISTRATION

Federal Management Regulation:

Transportation payment and audit; public voucher for transportation charges; comments due by 5-15-06; published 3-14-06 [FR E6-03578]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Radiology devices—

Bone sonometers reclassification; comments due by 5-16-06; published 2-15-06 [FR E6-02076]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Florida; comments due by 5-15-06; published 4-3-06 [FR E6-04786]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Broad Bay, Virginia Beach, VA; comments due by 5-15-06; published 3-30-06 [FR E6-04610]

Potomac River, Washington Channel, Washington, DC; comments due by 5-15-06; published 4-13-06 [FR E6-05522]

Regattas and marine parades:

Roar on the River Rampage; comments due by 5-17-06; published 4-17-06 [FR E6-05606]

Vessel document and measurement:

Coastwide trade vessels; lease financing; comments due by 5-16-06; published 2-15-06 [FR 06-01242]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:

Housing assistance payments (Section 8)—

Mark-to-Market Program; revisions; comments due by 5-15-06; published 3-14-06 [FR 06-02343]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Bald eagle; comments due by 5-17-06; published 2-16-06 [FR 06-01442]

Critical habitat designations—

Fender's blue butterfly, Kincaid's lupine, and Willamette daisy; comments due by 5-19-06; published 4-21-06 [FR E6-05975]

Laguna Mountains skipper; comments due by 5-15-06; published 4-13-06 [FR 06-03577]

Graham's beardtongue; comments due by 5-19-06; published 4-13-06 [FR 06-03578]

Preble's meadow jumping mouse; delisting; comments due by 5-18-06; published 2-17-06 [FR E6-02286]

Importation, exportation, and transportation of wildlife:

Bald eagles protection; definition; comments due by 5-17-06; published 2-16-06 [FR 06-01440]

Migratory bird hunting:

Alaska; 2006-07 spring/summer subsistence harvest regulations; Indian Tribal proposals and requests; comments due by 5-15-06; published 4-11-06 [FR 06-03418]

INTERIOR DEPARTMENT

National Park Service

Special regulations:

Curecanti National Recreation Area, CO; personal watercraft use; comments due by 5-16-06; published 3-17-06 [FR E6-03938]

NUCLEAR REGULATORY COMMISSION

Nuclear equipment and material; export and import:

NRC Form 7 application for export/import license, amendment, or renewal; revision; comments due by 5-15-06; published 4-13-06 [FR 06-03551]

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 5-18-06; published 4-18-06 [FR 06-03651]

POSTAL SERVICE

Domestic Mail Manual:

Sharps and other regulated medical waste containers; mailing standards; comments due by 5-18-06; published 4-18-06 [FR E6-05695]

TENNESSEE VALLEY AUTHORITY

Administrative cost recovery; exemptions elimination; comments due by 5-15-06; published 4-14-06 [FR 06-03451]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 5-15-06; published 4-13-06 [FR E6-05476]

Boeing; comments due by 5-15-06; published 3-30-06 [FR E6-04619]

Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 5-15-06; published 4-13-06 [FR E6-05474]

Gulfstream; comments due by 5-15-06; published 3-30-06 [FR E6-04621]

Sicma Aero Seat; comments due by 5-16-06; published 3-17-06 [FR E6-03908]

Thrush Aircraft, Inc.; comments due by 5-16-06; published 4-4-06 [FR 06-03162]

Twin Commander Aircraft Corp.; comments due by 5-16-06; published 3-16-06 [FR E6-03798]

Airworthiness standards:

Special conditions—

Airbus Model A380-800 airplane; comments due by 5-15-06; published 3-29-06 [FR E6-04509]

Airbus Model A380-800 airplane; comments due by 5-15-06; published 3-29-06 [FR E6-04511]

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Practice and procedure:

Class exemption proceedings; public participation; comments due by 5-15-06; published 3-16-06 [FR 06-02472]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4979/P.L. 109–218

Local Community Recovery Act of 2006 (Apr. 20, 2006; 120 Stat. 333)

Last List April 17, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4]Jan. 1, 2006
2	(869–060–00002–0)	5.00	Jan. 1, 2006
3 (2003 Compilation and Parts 100 and 101)	(869–056–00003–1)	35.00	[1] Jan. 1, 2005
4	(869–060–00004–6)	10.00	Jan. 1, 2006
5 Parts:			
1–699	(869–060–00005–4)	60.00	Jan. 1, 2006
700–1199	(869–060–00006–2)	50.00	Jan. 1, 2006
1200–End	(869–060–00007–1)	61.00	Jan. 1, 2006
6	(869–060–00008–9)	10.50	Jan. 1, 2006
7 Parts:			
1–26	(869–060–00009–7)	44.00	Jan. 1, 2006
27–52	(869–060–00010–1)	49.00	Jan. 1, 2006
53–209	(869–060–00011–9)	37.00	Jan. 1, 2006
210–299	(869–060–00012–7)	62.00	Jan. 1, 2006
300–399	(869–060–00013–5)	46.00	Jan. 1, 2006
400–699	(869–060–00014–3)	42.00	Jan. 1, 2006
700–899	(869–060–00015–1)	43.00	Jan. 1, 2006
900–999	(869–060–00016–0)	60.00	Jan. 1, 2006
1000–1199	(869–060–00017–8)	22.00	Jan. 1, 2006
1200–1599	(869–060–00018–6)	61.00	Jan. 1, 2006
1600–1899	(869–060–00019–4)	64.00	Jan. 1, 2006
1900–1939	(869–060–00020–8)	31.00	Jan. 1, 2006
1940–1949	(869–060–00021–6)	50.00	Jan. 1, 2006
1950–1999	(869–060–00022–4)	46.00	Jan. 1, 2006
2000–End	(869–060–00023–2)	50.00	Jan. 1, 2006
8	(869–060–00024–1)	63.00	Jan. 1, 2006
9 Parts:			
1–199	(869–060–00025–9)	61.00	Jan. 1, 2006
200–End	(869–060–00026–7)	58.00	Jan. 1, 2006
10 Parts:			
1–50	(869–060–00027–5)	61.00	Jan. 1, 2006
51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
500–End	(869–060–00030–5)	62.00	Jan. 1, 2006
11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
1–199	(869–060–00032–1)	34.00	Jan. 1, 2006
200–219	(869–060–00033–0)	37.00	Jan. 1, 2006
220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
300–499	(869–060–00035–6)	47.00	Jan. 1, 2006
500–599	(869–060–00036–4)	39.00	Jan. 1, 2006
600–899	(869–056–00037–5)	56.00	Jan. 1, 2005
900–End	(869–060–00038–1)	50.00	Jan. 1, 2006
13	(869–060–00039–9)	55.00	Jan. 1, 2006
14 Parts:			
1–59	(869–060–00040–2)	63.00	Jan. 1, 2006
60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
140–199	(869–060–00042–9)	30.00	Jan. 1, 2006
200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
1200–End	(869–060–00044–5)	45.00	Jan. 1, 2006
15 Parts:			
0–299	(869–060–00045–3)	40.00	Jan. 1, 2006
300–799	(869–060–00046–1)	60.00	Jan. 1, 2006
800–End	(869–060–00047–0)	42.00	Jan. 1, 2006
16 Parts:			
0–999	(869–060–00048–8)	50.00	Jan. 1, 2006
1000–End	(869–060–00049–6)	60.00	Jan. 1, 2006
17 Parts:			
1–199	(869–056–00051–1)	50.00	Apr. 1, 2005
200–239	(869–056–00052–9)	58.00	Apr. 1, 2005
240–End	(869–056–00053–7)	62.00	Apr. 1, 2005
18 Parts:			
1–399	(869–056–00054–5)	62.00	Apr. 1, 2005
*400–End	(869–060–00055–1)	26.00	[6]Apr. 1, 2006
19 Parts:			
1–140	(869–056–00056–1)	61.00	Apr. 1, 2005
141–199	(869–056–00057–0)	58.00	Apr. 1, 2005
200–End	(869–056–00058–8)	31.00	Apr. 1, 2005
20 Parts:			
1–399	(869–056–00059–6)	50.00	Apr. 1, 2005
400–499	(869–056–00060–0)	64.00	Apr. 1, 2005
500–End	(869–056–00061–8)	63.00	Apr. 1, 2005
21 Parts:			
1–99	(869–056–00062–6)	42.00	Apr. 1, 2005
100–169	(869–056–00063–4)	49.00	Apr. 1, 2005
170–199	(869–056–00064–2)	50.00	Apr. 1, 2005
200–299	(869–056–00065–1)	17.00	Apr. 1, 2005
300–499	(869–056–00066–9)	31.00	Apr. 1, 2005
500–599	(869–056–00067–7)	47.00	Apr. 1, 2005
600–799	(869–056–00068–5)	15.00	Apr. 1, 2005
800–1299	(869–056–00069–3)	58.00	Apr. 1, 2005
1300–End	(869–056–00070–7)	24.00	Apr. 1, 2005
22 Parts:			
1–299	(869–056–00071–5)	63.00	Apr. 1, 2005
*300–End	(869–060–00072–1)	45.00	[10]Apr. 1, 2006
23	(869–056–00073–1)	45.00	Apr. 1, 2005
24 Parts:			
0–199	(869–056–00074–0)	60.00	Apr. 1, 2005
200–499	(869–056–00074–0)	50.00	Apr. 1, 2005
500–699	(869–056–00076–6)	30.00	Apr. 1, 2005
700–1699	(869–056–00077–4)	61.00	Apr. 1, 2005
1700–End	(869–056–00078–2)	30.00	Apr. 1, 2005
25	(869–056–00079–1)	63.00	Apr. 1, 2005
26 Parts:			
§§ 1.0–1–1.60	(869–056–00080–4)	49.00	Apr. 1, 2005
§§ 1.61–1.169	(869–056–00081–2)	63.00	Apr. 1, 2005
§§ 1.170–1.300	(869–056–00082–1)	60.00	Apr. 1, 2005
§§ 1.301–1.400	(869–056–00083–9)	46.00	Apr. 1, 2005
§§ 1.401–1.440	(869–056–00084–7)	62.00	Apr. 1, 2005
§§ 1.441–1.500	(869–056–00085–5)	57.00	Apr. 1, 2005
§§ 1.501–1.640	(869–056–00086–3)	49.00	Apr. 1, 2005
§§ 1.641–1.850	(869–056–00087–1)	60.00	Apr. 1, 2005
§§ 1.851–1.907	(869–056–00088–0)	61.00	Apr. 1, 2005
§§ 1.908–1.1000	(869–056–00089–8)	60.00	Apr. 1, 2005
§§ 1.1001–1.1400	(869–056–00090–1)	61.00	Apr. 1, 2005
§§ 1.1401–1.1550	(869–056–00091–0)	55.00	Apr. 1, 2005
§§ 1.1551–End	(869–056–00092–8)	55.00	Apr. 1, 2005
2–29	(869–056–00093–6)	60.00	Apr. 1, 2005
30–39	(869–056–00094–4)	41.00	Apr. 1, 2005
40–49	(869–056–00095–2)	28.00	Apr. 1, 2005
50–299	(869–056–00096–1)	41.00	Apr. 1, 2005

Title	Stock Number	Price	Revision Date
300–499	(869–056–00097–9)	61.00	Apr. 1, 2005
500–599	(869–060–00098–4)	12.00	[5]Apr. 1, 2006
600–End	(869–056–00099–5)	17.00	Apr. 1, 2005
27 Parts:			
1–199	(869–056–00100–2)	64.00	Apr. 1, 2005
200–End	(869–056–00101–1)	21.00	Apr. 1, 2005
28 Parts:			
0–42	(869–056–00102–9)	61.00	July 1, 2005
43–End	(869–056–00103–7)	60.00	July 1, 2005
29 Parts:			
0–99	(869–056–00104–5)	50.00	July 1, 2005
100–499	(869–056–00105–3)	23.00	July 1, 2005
500–899	(869–056–00106–1)	61.00	July 1, 2005
900–1899	(869–056–00107–0)	36.00	[7]July 1, 2005
1900–1910 (§§ 1900 to 1910.999)	(869–056–00108–8)	61.00	July 1, 2005
1910 (§§ 1910.1000 to end)	(869–056–00109–6)	58.00	July 1, 2005
1911–1925	(869–056–00110–0)	30.00	July 1, 2005
1926	(869–056–00111–8)	50.00	July 1, 2005
1927–End	(869–056–00112–6)	62.00	July 1, 2005
30 Parts:			
1–199	(869–056–00113–4)	57.00	July 1, 2005
200–699	(869–056–00114–2)	50.00	July 1, 2005
700–End	(869–056–00115–1)	58.00	July 1, 2005
31 Parts:			
0–199	(869–056–00116–9)	41.00	July 1, 2005
200–499	(869–056–00117–7)	33.00	July 1, 2005
500–End	(869–056–00118–5)	33.00	July 1, 2005
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–056–00119–3)	61.00	July 1, 2005
191–399	(869–056–00120–7)	63.00	July 1, 2005
400–629	(869–056–00121–5)	50.00	July 1, 2005
630–699	(869–056–00122–3)	37.00	July 1, 2005
700–799	(869–056–00123–1)	46.00	July 1, 2005
800–End	(869–056–00124–0)	47.00	July 1, 2005
33 Parts:			
1–124	(869–056–00125–8)	57.00	July 1, 2005
125–199	(869–056–00126–6)	61.00	July 1, 2005
200–End	(869–056–00127–4)	57.00	July 1, 2005
34 Parts:			
1–299	(869–056–00128–2)	50.00	July 1, 2005
300–399	(869–056–00129–1)	40.00	[7]July 1, 2005
400–End & 35	(869–056–00130–4)	61.00	July 1, 2005
36 Parts:			
1–199	(869–056–00131–2)	37.00	July 1, 2005
200–299	(869–056–00132–1)	37.00	July 1, 2005
300–End	(869–056–00133–9)	61.00	July 1, 2005
37	(869–056–00134–7)	58.00	July 1, 2005
38 Parts:			
0–17	(869–056–00135–5)	60.00	July 1, 2005
18–End	(869–056–00136–3)	62.00	July 1, 2005
39	(869–056–00139–1)	42.00	July 1, 2005
40 Parts:			
1–49	(869–056–00138–0)	60.00	July 1, 2005
50–51	(869–056–00139–8)	45.00	July 1, 2005
52 (52.01–52.1018)	(869–056–00140–1)	60.00	July 1, 2005
52 (52.1019–End)	(869–056–00141–0)	61.00	July 1, 2005
53–59	(869–056–00142–8)	31.00	July 1, 2005
60 (60.1–End)	(869–056–00143–6)	58.00	July 1, 2005
60 (Apps)	(869–056–00144–4)	57.00	July 1, 2005
61–62	(869–056–00145–2)	45.00	July 1, 2005
63 (63.1–63.599)	(869–056–00146–1)	58.00	July 1, 2005
63 (63.600–63.1199)	(869–056–00147–9)	50.00	July 1, 2005
63 (63.1200–63.1439)	(869–056–00148–7)	50.00	July 1, 2005
63 (63.1440–63.6175)	(869–056–00149–5)	32.00	July 1, 2005
63 (63.6580–63.8830)	(869–056–00150–9)	32.00	July 1, 2005
63 (63.8980–End)	(869–056–00151–7)	35.00	[7]July 1, 2005
64–71	(869–056–00152–5)	29.00	July 1, 2005
72–80	(869–056–00153–5)	62.00	July 1, 2005
81–85	(869–056–00154–1)	60.00	July 1, 2005
86 (86.1–86.599–99)	(869–056–00155–0)	58.00	July 1, 2005
86 (86.600–1–End)	(869–056–00156–8)	50.00	July 1, 2005
87–99	(869–056–00157–6)	60.00	July 1, 2005
100–135	(869–056–00158–4)	45.00	July 1, 2005
136–149	(869–056–00159–2)	61.00	July 1, 2005
150–189	(869–056–00160–6)	50.00	July 1, 2005
190–259	(869–056–00161–4)	39.00	July 1, 2005
260–265	(869–056–00162–2)	50.00	July 1, 2005
266–299	(869–056–00163–1)	50.00	July 1, 2005
300–399	(869–056–00164–9)	42.00	July 1, 2005
400–424	(869–056–00165–7)	56.00	[8]July 1, 2005
425–699	(869–056–00166–5)	61.00	July 1, 2005
700–789	(869–056–00167–3)	61.00	July 1, 2005
790–End	(869–056–00168–1)	61.00	July 1, 2005
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–056–00169–0)	24.00	July 1, 2005
101	(869–056–00170–3)	21.00	July 1, 2005
102–200	(869–056–00171–1)	56.00	July 1, 2005
201–End	(869–056–00172–0)	24.00	July 1, 2005
42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–056–00175–4)	64.00	Oct. 1, 2005
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
1000–end	(869–056–00177–1)	62.00	Oct. 1, 2005
44	(869–056–00178–9)	50.00	Oct. 1, 2005
45 Parts:			
1–199	(869–056–00179–7)	60.00	Oct. 1, 2005
200–499	(869–056–00180–1)	34.00	Oct. 1, 2005
500–1199	(869–056–00171–9)	56.00	Oct. 1, 2005
1200–End	(869–056–00182–7)	61.00	Oct. 1, 2005
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[9]Oct. 1, 2005
70–89	(869–056–00185–1)	14.00	[9]Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9]Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
20–39	(869–056–00193–2)	46.00	Oct. 1, 2005
40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
1 (Parts 52–99)	(869–056–00198–3)	49.00	Oct. 1, 2005
2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
49 Parts:			
1–99	(869–056–00204–1)	60.00	Oct. 1, 2005
100–185	(869–056–00205–0)	63.00	Oct. 1, 2005
186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
200–299	(869–056–00207–6)	32.00	Oct. 1, 2005
300–399	(869–056–00208–4)	32.00	Oct. 1, 2005
400–599	(869–056–00209–2)	64.00	Oct. 1, 2005
600–999	(869–056–00210–6)	19.00	Oct. 1, 2005
1000–1199	(869–056–00211–4)	28.00	Oct. 1, 2005
1200–End	(869–056–00212–2)	34.00	Oct. 1, 2005
50 Parts:			
1–16	(869–056–00213–1)	11.00	Oct. 1, 2005
17.1–17.95(b)	(869–056–00214–9)	32.00	Oct. 1, 2005
17.95(c)–end	(869–056–00215–7)	32.00	Oct. 1, 2005
17.96–17.99(h)	(869–056–00215–7)	61.00	Oct. 1, 2005
17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
18–199	(869–056–00218–1)	50.00	Oct. 1, 2005
200–599	(869–056–00218–1)	45.00	Oct. 1, 2005
600–End	(869–056–00219–0)	62.00	Oct. 1, 2005
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2006 CFR set		1,398.00	2006
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2006
Individual copies		4.00	2006
Complete set (one-time mailing)		325.00	2005
Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[*6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[*10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.